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M.DCC.LXVI.

BRARY

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Considerations on the Propriety of imposing Taxes in the British Colonies. By Mr. DULANEY of Maryland.

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A DEFENCE OF THE NEW-ENGLAND CHARTERS.

By *JER. DUMMER.*

Pulchrum eſt Patriæ benefacere, etiam benedicere haud abſurdum eſt.

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To the Right Honorable the

Lord *CARTERET*,

One of his MAJESTY's Principal Secretaries of State.

My LORD,

HAVING lately had the honor of preſenting the humble Addreſs of the Province of the *Maſſachuſets-Bay* to his Majeſty, for the continuance of their charter privileges, which they apprehend in ſome danger: it ſeem'd agreeable at the ſame time, to explain the right which the charter governments have to thoſe privileges. Nor could an argument of this nature be ſo properly addreſs'd to any other perſon as your Lordſhip, who, in your high ſtation, have all his Majeſty's colonies and plantations within your province, and under your immediate care.

My LORD, the Colonies I plead for, aſk only juſtice; yet if their circumſtances ſhould require the royal grace, they humbly hope they have ſome claim to it from their firm and exemplary loyalty. For it may be ſaid to their honor, that it is not known there is a ſingle perſon in all the charter governments, whatever there may be in the

the reſt, who is not zealouſly devoted to his preſent Majeſty, and to the ſucceſſion in his illuſtrious houſe.

It would be, my LORD, a raſh and ill-judg'd attempt in me, to enter here into your Lordſhip's character, as the manner of Dedicators is; I ſhall not therefore preſume to mention thoſe great abilities which have diſtinguiſhed your Lordſhip in foreign courts as well as your own; but only beg leave to expreſs my thanks for that amiable goodneſs, ſo conſpicuous in your Lordſhip, which ſoftens the brow of the miniſter, and makes our acceſs eaſy, when public buſineſs calls us to attend your Lordſhip.

May you long continue an ornament and ſupport to his Majeſty's councils.

I am,

With profound Eſteem and Reſpect,

My LORD,

Your LORDSHIP'S

moſt obedient and

devoted Servant,

JER. DUMMER.

A DEFENCE OF THE New-England CHARTERS.

THE general name of New-England, includes in its common acceptation the province of the Maſſachuſets-Bay, the colony of Connecticut, the government of Rhode Iſland, with Providence plantations, and the province of New-Hampſhire. The three former are charter governments: the laſt, *viz.* New-Hampſhire, never had any peculiar privileges, but is under the immediate and abſolute direction of the crown. The Maſſachuſets, as it is the firſt of all the colonies in extent of territory and number of inhabitants, was the firſt incorporated, having obtain'd their charter from king Charles the Firſt, in the fourth

year of his reign. The colony of Connecticut received theirs from king Charles the Second in 1662, and the fourteenth year of his reign. The government of Rhode-Iſland had theirs in the year following. Theſe charters agreed in all the main points, confirming to the patentees their title to the ſoil, and giving them ample privileges for the well ordering and governing the reſpective plantations: They had power to make a common ſeal; to plead and be impleaded; to call general aſſemblies; to make laws, ſo as they were not repugnant to the laws of England; to aſſeſs the freemen; to conſtitute all civil officers; to array the inhabitants in warlike poſture, and uſe the martial law, when occaſion required. And it was provided further, that in caſe any doubts ſhould ariſe, the charters ſhould have the moſt favorable conſtruction for the benefit of the ſeveral corporations.

Invited and encouraged by theſe advantages, a conſiderable number of perſons diſſenting from the diſcipline of the eſtabliſhed church, though agreeing with it in doctrine, removed into thoſe remote regions, upon no

other

other view than to enjoy the liberty of their conſciences without hazard to themſelves, or offence to others. Thus the colonies went on increaſing and flouriſhing, in ſpite of all difficulties, till the year 1684, when the city of London loſt its charter, and moſt of the other corporations in England, influenced by fear or flattery, complimented king Charles with a ſurrender of theirs. In this general ruin of charters at home, it could not be expected that thoſe in America ſhould eſcape. It was then that a quo warranto was iſſued againſt the governor and company of the Maſſachuſets-Bay, and ſoon after a judgment was given againſt them in Weſtminſter Hall. At the ſame time Sir Edmund Andros, then the King's governor of New-England, did by order from court repair to Hartford, the capital of Connecticut, with arm'd attendants, and forcibly ſeized their charter for the King. Rhode Iſland, finding there was no remedy to be had, made a virtue of neceſſity, and peaceably reſigned theirs. But as ſoon as the news arrived of the happy revolution in England, theſe two laſt mentioned govern-

ments re-aſſum'd their charters, and put themſelves under the old form of adminiſtration, in which they have continued ever ſince. The government of the Maſſachuſets, cautious of offending their ſuperiors at home, and conſidering there was a judgment againſt them in the court of Chancery, though moſt unfairly and illegally obtained, did not think it adviſeable to make this ſtep; but ſent agents to Court to ſupplicate, in a humble manner, the reſtoration of their charter. To what miſmanagement, or other cauſe it was owing, that they did not obtain it, and that this loyal corporation was the only one either in Old or New-England, that did not recover its loſt liberty under our late glorious King William, 'tis now too late, and therefore to no purpoſe, to enquire. A new charter was ordered, which the province now has, and is not much more than the ſhadow of the old one. For by theſe new letters patent, the appointment of a governor, lieutenant-governor, ſecretary, and all the officers of the admiralty, is veſted in the crown. The powers of the militia is wholly in the hands of his Majeſty's go-

vernor,

vernor, as captain-general. All judges, juſtices, and ſheriffs, to whom the execution of the laws is entruſted, are nominated by the governor with the advice of his Majeſty's council. The governor has a negative upon the choice of counſellors, which is both peremptory and unlimited: He is neither obliged to render a reaſon, nor reſtrained to any number. All laws enacted by the general aſſembly are ſent home for the royal approbation or diſallowance. There is, beſides, one very comprehenſive article inſerted in this charter, that no laws, ordinances, elections, or acts of government whatſoever, ſhall be of any validity, without the conſent of the King's governor ſignified in writing.

By theſe reſervations, the prerogative of the crown, and the dependance of the province thereon are in the moſt effectual manner ſecured, if there had been any danger before, as I hope in the ſequel of this diſcourſe, to demonſtrate that there was not. And yet it happens unaccountably that this charter of King William, ſo limited and reſtrained, is as obnoxious as

either

either of the other which have their full and entire force. Accordingly when about ſix years ſince a bill was brought into the houſe of Commons, and twice read, for regulating the charter and proprietary governments, this was one among the reſt, and the firſt named in the bill. And tho' the honourable houſe thought fit, upon hearing the petitions preſented to them upon that occaſion, to drop their proceedings, there is reaſon to believe they may at another time reſume them. It is in this view, that I have put together my thoughts on the ſubject, which for method's ſake I have diſpoſed under the following heads.

1ſt, I ſhall endeavour to ſhow, that the charter governments have a good and undoubted right to their reſpective charters.

2dly, That they have not forfeited them by any miſgovernment or male-adminiſtration.

3dly, That if they had, it would not be the intereſt of the crown to accept the forfeitures. And,

4thly,

4thly, I ſhall make ſome obſervations upon the extraordinary method of proceeding againſt the charters by a bill in parliament.

1ſt Propoſition, *That the Charter Governments have a good and undoubted Right to their reſpective Charters.*

AS to the firſt point there can be no difficulty. The charters were granted by the crown, and the King is acknowledged to be the head and fountain of all corporations and franchiſes. For tho' my Lord Coke takes notice, That a body politick may be eſtabliſhed by preſcription, yet ſuch preſciption is only valid upon a preſumption that there was an ancient grant of the crown, which by the injury of time was afterwards loſt. I need not inſiſt upon what no body controverts; but it is material to obſerve, that the American charters are of a higher nature, and ſtand on a better foot,

foot, than the corporations in England. For theſe latter were granted upon improvements already made, and therefore were acts of mere grace and favor in the crown; whereas the former were given as premiums for ſervices to be performed, and therefore are to be conſidered as grants upon a valuable conſideration; which adds weight and ſtrength to the title.

To increaſe the nations commerce and enlarge her dominions, muſt be allowed a work of no little merit, if we conſider the hardſhips to which the adventurers were expoſed; or the expence in making their ſettlements; or laſtly, the great advantages thence accruing to the crown and nation. It would be an endleſs taſk to recount all the diſappointments, and diſaſters that befel the firſt planters in theſe enterprizes. I ſhall therefore only ſay in general, that after many dangers in their voyages over the Atlantic, which was not ſuch an eaſy navigation a hundred years ago as it is now, they arrived at an inhoſpitable ſhore and a waſte wilderneſs, where there were few of the neceſſaries, and not

one

one of the accommodations of life; where the climate was ſo extreme, the ſummer heats ſo ſcorching, and the winters ſo long and ſo cold, that the country ſeemed hardly habitable; to ſum up their misfortunes, they found themſelves inevitably engaged in a war with the natives. So that by fatigue and famine, by the extremity of the ſeaſons, and by a war with the ſavages, the firſt planters ſoon found their graves, leaving the young ſettlements to be perfected by their ſurvivors.

To omit all this, I ſhall only be particular in the expence, which was above 200,000l. in ſettling the ſingle province of the Maſſachuſets-Bay. The account ſtands thus: The freight of the paſſengers coſt 95,000l. The tranſportation of their firſt ſtock of cattle came to 12,000l. The proviſions laid in for ſubſiſtance, till by tillage more could be raiſed, coſt 45,000l. The materials for building their firſt little cottages came to 18,000l. Their arms and ammunition coſt 22,000l. Theſe ſeveral articles amount to 192,000l. not taking into the account the very great ſums which

were expended in things of private uſe, that people could not be without, who were going to poſſeſs an uninhabited land. I muſt add, that 192 ſhips were employed in making this great plantation, and twelve years were ſpent before it was brought to any tolerable degree of perfection.

As great, however, as this expence was, I believe it will appear that the ſettlement of New-England was not more chargeable to the adventurers, than it has been in its conſequence profitable to Great-Britain. There is no ſort of Britiſh manufacture, but what the ſubjects there demand in a greater or leſs proportion, as they have ability to pay for it; every thing for the uſe, convenience, ornament, and (I ſay it with regret) the luxury and pride of life. Some of the oldeſt and moſt experienced traders to thoſe parts have by computation made theſe exports ariſe to the value of 300,000l. per annum. The imports from thence are equally beneficial to the kingdom. They brought home bullion as long as they had any left; and now they are ſo exhauſted they can no longer ſend it directly,

directly, they continue to remit it by the way of Spain, Portugal and the Streights: It is there they ſell their fiſh, and the produce of it comes hither in gold and ſilver, or bills of exchange, which is the ſame thing.

Other and better returns than money itſelf they make in maſts, the faireſt and largeſt in the whole world, beſides pitch, tar, turpentine, roſin, plank, knees for ſhips, and other ſpecies of timber for various uſes. Theſe, eſpecially pitch and tar, were formerly purchaſed of the Swede with crown pieces at intolerable prices; but ſince the encouragement given for their importation from New-England, they have fallen to half the value. It is further to be conſidered, that what we take of theſe commodities from our own plantations, is brought home in our own ſhips, and paid for with our manufactures.

New-England alſo imports logwood for the dying our woollen goods in quantities ſufficient for our own uſe, and a ſurplus with which we furniſh Holland, Hamburgh, and other markets in Europe. It

is wholly owing to the induſtry of the people of New-England, that this uſeful commodity is reduced from 30 and 40l. per ton, which we uſed to pay for it to the Spaniard, to 12l. per ton, which is the preſent price, and out of this 12l. there is 4l. 5s. paid to the crown for cuſtom.

Other articles might be mentioned, as whale-oil and fins, which are yearly imported from New-England in no contemptible quantities. They are uſeful in ſeveral manufactures; and if not had from thence muſt have been purchaſed of the Dutch with ready money at exceſſive prices.

'Tis true, New-England makes no ſugar, but it aſſiſts the iſlands that do; without which aſſiſtance they could not make it, at leaſt not cheap enough, and in ſufficient quantities to anſwer the markets in Europe. For if the ſugar iſlands were obliged to ſow wheat, and plant as much Indian corn as they wanted, they muſt needs plant the fewer canes, and by conſequence make the leſs ſugar. From thence they are alſo ſupplied with horſes for their mills, timber

for

for their ſugar works, ſtaves for their caſks, and what is more conſiderable, with barrel pork, mackrel, and refuſe cod-fiſh for their negroes, without which their labour would yield nothing to their owners. For were they to feed their ſlaves with beef and other proviſions from Britain and Ireland, the expence of a plantation would devour the whole produce of it. There are now ſuch quantities of ſugar made in the French and Dutch plantations, and ſo much imported from Brazil by the Portugueſe, that our ſugar iſlands need all advantages to make that commodity cheap and in plenty, that we may be able to out-do, or at leaſt equal our neighbours in the foreign markets.

It may be added, that New-England is a good nurſery of ſeamen for the navy. I believe I may affirm, that there was hardly a ſhip, during the laſt war, in the royal navy, without ſome of *their* ſailors on board, which ſo diſtreſſed the New-England merchants, that they were obliged to man their ſhips with Indians and Negroes.

What I have ſaid amounts to this: THAT New-England received her charters on this expreſs condition, of ſettling colonies for the benefit of the crown: THAT ſhe was at a vaſt expence, and through incredible difficulties accompliſhed the work even beyond what was ever hoped or expected.

And then the concluſion, that I would draw from theſe premiſes is this, THAT to ſtrip the country of their charters after the ſervice has been ſo ſucceſsfully performed, is abhorrent from all reaſon, equity and juſtice.

But it is urg'd, *That the crown does not take back the ſoil, though it does the charters*; which indeed is ſaying very little or nothing. The crown, ſtrictly ſpeaking, neither did nor could grant the ſoil, having no right in it-ſelf. Queen Elizabeth gave out the firſt patent to Sir Walter Rawleigh in 1584; and if ſhe had any right, what was it and whence derived? It was not a *right of inheritance*, becauſe thoſe countries did not deſcend to her from her anceſtors. Not of *conqueſt*, becauſe ſhe neither conquered nor attempted to conquer them. Beſides, it would

be

be pretty hard to conceive how a conqueſt, where there was no preceding injury or provocation, could create a right. Nor did it ariſe by *purchaſe*, there being no money or other valuable conſideration paid. Nor could ſhe claim by the *prior diſcovery or pre-occupancy*, as the Civilians ſpeak, becauſe that gives a right only to *derelict lands*, which theſe were not, being full of inhabitants, who undoubtedly had as good a title to their own country, as the Europeans have to theirs. And ſure nobody will ſay in plain terms, that we have any claim upon the foot that we were *Chriſtians*, and they *Heathens*; which yet I know ſome perſons of no obſcure fame have tacitly ſuggeſted. Rome itſelf, as imperious as ſhe is, never carried her pretences to this height: for though ſome of her doctors have taught, abſurdly enough, that *dominion* is founded in grace, none of them ever ſaid that *property* was. There remains then no other right than what is derived from the native lords of the ſoil, and that is what the honeſt New-England planters rely on, having purchaſed it with their money. The

Indian

Indian title therefore, as it is decryed and undervalued here, ſeems the only fair and juſt one; and neither Queen Elizabeth by *her* patents, or King James by *his* afterwards, could give any more than a bare *right of pre-emption*.

And yet admitting that the crown granted the ſoil, to how little muſt the value of ſuch grants amount, all circumſtances conſidered? The patentees were not only obliged to travel a thouſand leagues beyond ſea, but to purchaſe their grants over again of the natives, before they could be put into poſſeſſion. The land itſelf was of a rough ſavage nature, incumbered with unprofitable woods, and of no uſe, till by vaſt labour and expence ſubdued and cultivated. For to ſpeak the truth, thoſe parts were but *bare creation* to the firſt planters, and their labour *like the beginning the world*.

So that which way ſoever we take it, I think it's plain, if the crown reſumes the charters, it will take away the whole it gave, and deprive the patentees of the only recompence they were to have for all

their

their toils and fatigues, which they thought to have conveyed ſafe to their poſterity. Could they have imagined this, could they have foreſeen that their privileges were ſuch tranſitory things, as to laſt no longer than their work ſhould be done, and their ſettlements compleated, they had never engaged in ſo hazardous and difficult an enterprize. They would never have parted from their native land, being neither criminals nor neceſſitous; and thoſe countries which have ſince added ſo much to the wealth and greatneſs of the crown, might have been a barren wilderneſs to this day; or what is worſe, and more probable, might have been filled with French colonies, whereby France would have reigned ſole miſtreſs of North America.

I believe it will be generally allowed, that my argument is thus far right, if I can make good my ſecond propoſition.

2d Propoſition. *That theſe Governments have by no Miſbehavior forfeited their Charters.*

THAT theſe governments have by no miſbehaviour forfeited back their charters to the crown.

Some of the ableſt common lawyers that England could ever boaſt of, have maintained that a corporation, being an *ens rationis*, is in its nature indiſſolvable, and that therefore no abuſe of its franchiſes can effect it in point of forfeiture, or determine its being. If this argument ſhould be thought too ſubtle and metaphyſical, I hope however it will be allowed an extreme on the other ſide, that a corporation ſhould be threatened for *every* offence to be ſeized into the King's hands. The ſubjects abroad claim the privilege of Magna Charta, which ſays that no man ſhall be fined above the nature of his offence, and whatever his miſcarriage be, a *ſalvo contenemento ſuo* is to be obſerved by the judge.

If

If therefore they have committed faults, let them be *chaſtiz'd*, not *deſtroyed*; let not their corporations be diſſolved for any other crime than a failure of their allegiance. But I need not go into this or any other nice point of law, it being ſufficient to ſhow that the charter governments are clear of the ſeveral facts which have been objected againſt them, and aſſigned as matter of forfeiture. In the bill that was brought into the houſe of commons, there were two allegations againſt the charter and proprietary governments, which I ſhall firſt anſwer, and then go on to conſider ſuch other complaints as I have met with from time to time againſt theſe governments.

The 1ſt Charge againſt the Charter Governments, that they have neglected the Defence of the Inhabitants, anſwered.

THE firſt charge in the bill againſt the charter governments, is that *they have neglected the defence of the inhabitants.* This I muſt own, if true, and ſuch neglect was voluntary, while they had

the means and power of defence in their hands, was a high and treaſonable breach of their truſt, and would be the ſtrongeſt argument that could be brought for a reſumption of the charters. But now, if I ſhall prove that theſe governments, eſpecially the Maſſachuſets and Connecticut, have in all times paſt defended the inhabitants both by ſea and land, as well againſt the French as Indian enemy: If I ſhall prove that they have all the late war protected one of the King's provinces lying on their confines, which would otherwiſe inevitably have been loſt; and that another of thoſe provinces took no part in the war, but maintained a ſhameful neutrality with the enemy, whereby the whole weight of the war fell on the Maſſachuſets: if I ſhall prove that they have frequently carried offenſive arms into the French territories, and made one important conqueſt, ſince annexed to the Britiſh crown; and that all this was done at their own vaſt expence; then, I hope, New-England will ſtand fairly acquitted of this ſuppoſed crime of neglecting to defend the inhabitants, and

be

be allowed not only irreprehenſible in this reſpect, but to have highly merited of the crown and nation.

Theſe facts are ſo certain and ſo well known, that I am perſuaded this had never been aſſigned as a reaſon for diſſolving the charters, but with a ſpecial view to Carolina, which, when this bill was brought into the houſe, was reduced to extremity by a war with the Spaniſh Indians; and being neither able to defend themſelves, nor obtain ſuccors from their lords proprietors, addreſſed the crown to take them under its protection. It was therefore natural enough to mention this in the bill; though with humble ſubmiſſion, it being the ſingle caſe of one proprietary colony, it ſhould in all reaſon have been reſtrained to that, and not extended to the charter provinces, which are neither alike conſtituted, nor were in the ſame diſtreſs. For New-England, as I ſhall preſently ſhow, has defended itſelf from the firſt beginning to this day without being burdenſome to the crown, though not without great ſtruggles and difficulties.

'Tis

'Tis true, they did not commence hoſtilities, nor even take up arms of defence, till they found by experience that no other means would prevail. The firſt planters, far from uſing the barbarous methods practiſed by the Spaniards on the Southern continent, which have made them deteſtable to the whole Chriſtian world, ſought to gain the natives by ſtrict juſtice in their dealings with them, as well as by all the endearments of kindneſs and humanity. To lay an early foundation for a firm and laſting friendſhip, they aſſured the Americans, that they did not come among them as invaders but purchaſers, and therefore called an aſſembly of them together, to enquire who had the right to diſpoſe of their lands; and being told it was their Sachems or Princes, they thereupon agreed with them for what diſtricts they bought, publickly and in open market. If they did not pay a great price for their purchaſes, yet they paid as much as they were worth. For it muſt be conſidered, that land was of little uſe to the natives, and therefore but of little value. They lived chiefly on fiſh and fowl, and hunting,

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becauſe they would not be at the pains to clear and break up the ground. And as for their meadows and marſhes, they were of no uſe at all, for want of neat cattle to feed them, of which there were none in thoſe parts of the world.

The Engliſh had no ſooner made ſome neceſſary proviſion for themſelves, than they applied their cares for the benefit of the Indians, by endeavouring to bring them from their wild manner of life to the civil and polite cuſtoms of Europe. For this purpoſe, they mark'd out land to build Indian towns, ſupplied them with all proper utenſils for building, preſcribed to them forms of government, and above all, omitted no pains to bring them acquainted with the goſpel. After ſome time, when it was found neceſſary, the colony made a law to forbid any perſon's purchaſing lands of the Indians without the approbation of the general court, to prevent their being over-reached or ill uſed in their private bargains; and ſome land, lying very convenient for them, was by another law made inalienable, and never to be purchaſed out of their hands,

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than which nothing could more demonſtrate the colony's care and concern for the natives.

I thought myſelf obliged to make this preface to the main argument, that I might wipe off an unworthy aſperſion that has been caſt upon the firſt ſettlers of New-England, that they never treated the ſavages well, but encroached on their land by degrees, till they fraudulently and forcibly turned them out of all. It was far otherwiſe, as I have ſhown; yet nothing could oblige the Indians to peace and friendſhip. They were alarmed with the ſtrong jealouſies of the growing power of the Engliſh, and therefore began a war with a reſolution to extirpate them, before they had too well eſtabliſhed themſelves. Yet as terrible as this proſpect was to two or three young colonies, who had work enough to defend themſelves againſt famine, which in a cold barren country, ſurrounded with enemies, ſtared them in the face, they nevertheleſs made no application to the crown for aſſiſtance, but drew up articles of confederacy among themſelves, by the name of the

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United Colonies of New-England, for their mutual defence. This done, they took the number of all the males in the ſeveral plantations, and raiſing a poll-tax according to each perſon's reſpective ability, they with one conſent laid aſide their plough-ſhares and pruning-hooks for the ſword and the ſpear, and under the command of major-generals, whom they choſe after the manner then in England, marched directly to the enemy's head-quarters, and ſtrongeſt fortifications, from whence they drove them with great precipitation. Nor did they ſtop there, but purſued them through all their receſſes, till they obliged them to enter into a ſolemn treaty of peace. Such however was the perfidious nature of the American ſavages, that they ſoon renewed the hoſtilities, though to their own fatal coſt. For if the Engliſh experienced a variety of fortune, as could not but be expected in the viciſſitudes of war, yet they were for the moſt part victorious, and in the courſe of ſome years, after many terrible ſlaughters of the enemy, ſubdued and utterly extirpated ſeven or eight fierce and populous nations.

I am ſenſible ſome have endeavoured to depreciate theſe conqueſts, as gained over a rude and barbarous people, unexerciſed to arms; which if granted, ſtill it cannot be ſaid, that *the defence of the inhabitants was neglected*; and therefore the charter governments can fall under no cenſure, if they ſhould be thought to have merited no praiſe. But if it be conſidered, that the New-England forces contended with enemies bloody in their nature, and ſuperior in number; that they attacked them in deep moraſſes, defended with fortifications ſufficiently ſtrong, though not regular; and that the aſſailants were not provided with cannon, nor could approach by trenches, but advanced on level ground: and if to this be added the vaſt fatigues of their campaigns, where officers and ſoldiers lay on the ſnow without any ſhelter over their heads, in the moſt rigorous winters; I ſay, if a juſt conſideration be had of theſe things, envy itſelf muſt acknowledge that their enterprizes were hardy, and their ſucceſſes glorious. And though the brave commanders who led on theſe troops, and moſt of them died in the bed

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of honour, muſt not ſhine in the Britiſh annals, yet their memory ought to be ſacred in their own country, and there at leaſt be tranſmitted to the lateſt poſterity.

The inland parts being now at reſt, the war was removed to the frontiers, which were cruelly harraſſed by other Indian tribes, animated and aſſiſted by the French of Canada, who have given the Maſſachuſets but few intervals of peace, and thoſe very ſhort ones, from that time to this day. All this while THAT government was never wanting to protect the King's ſubjects within their juriſdiction, even in the remoteſt parts of it. They kept troops on foot, no leſs than ſix or ſeven hundred at a time, to cover the barrier line, and build forts wherever they were neceſſary; one of them named William-Henry, but commonly called Pemaquid-fort, becauſe built on a river of that name, was in the heart of the enemy's country, and deſerves a particular deſcription. It was built of ſtone in a quadrangular figure, 737 foot in circumference, without the outer wall, and 108 foot ſquare within the inner ones. It had 28 ports,

and 18 guns mounted, 6 being 18 pounders. The wall on the ſouth line fronting to the ſea, was 22 foot high, and above 6 foot thick at the ports, which were 18 foot from the ground. The round tower at the weſt end of this line, was 29 foot high: the wall on the eaſt line was 12 foot high, on the north 10, and on the weſt 18. It ſtood 20 rod from high-water mark, and was garriſoned with 60 and ſometimes 100 men. The expence in building and maintaining this garriſon was conſiderable, yet the province chearfully ſubmitted to it; nor did they decline rebuilding it, after it was ſurprized and demoliſhed by the French, for any other reaſon, but that it was found by experience, the enemy could come many miles wide of it, and attack their frontiers. They therefore built forts at Saco and Caſco, and other places moſt expoſed, which anſwered the ſame end.

By this care the power of the enemy was very much broke, and the King's province of New-Hampſhire, from whence the royal navy is annually ſupplied with maſts, has been preſerved, which otherwiſe muſt have

unavoidably

unavoidably been loſt, being unable to help itſelf, and receiving no ſuccours from home. New-York, another of the King's provinces, has always kept itſelf in a ſtate of neutrality, contributing nothing to the common ſafety, whilſt the Canada Indians, joined by parties of the French, uſed to make their rout by their borders without moleſting them, and fall upon the out-towns of the Maſſachuſets. This behaviour was the more unpardonable in that government, becauſe they have 400 regular troops maintained among them at the King's charge, and have the five nations of the Iroquois on their confines, who are entirely dependent on them, and might eaſily, had they been engaged in the common cauſe, at all times have intercepted the enemy in their marches, and thereby have prevented the depredations committed on his Majeſty's ſubjects. Solemn and repeated applications were made to the government of New-York, by the governors of Maſſachuſets, Connecticut, and Rhode-Iſland, in joint letters on this ſubject, but in vain. The anſwer was, they could not think it proper to engage their Indians in

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an actual war, leſt they ſhould endanger their own frontiers, and bring upon themſelves an expence which they were in no condition to provide for. And thus the poor charter colonies were leſt to bear the whole burden, and do all the work themſelves.

The province of the Maſſachuſets-Bay has been equally ſollicitous to protect their inhabitants by ſea, againſt any foreign invaſion. For this end they have kept their militia well trained and diſciplined, and by an act of the aſſembly obliged all perſons, under proper penalties, to be well provided with ammunition and arms, that they might be ready in caſe of a ſudden deſcent from abroad. Boſton, which is their capital town, and principal ſea-port, is fortified with two batteries to the ſea, one at each end of the town; and about a league from it, at the entrance of the harbour, there is a ſtrong beautiful caſtle, which is by far the fineſt piece of military architecture in the Britiſh America. It was built by Col. Romer, a famous German engineer, at the country's expence, and is called Caſtle William. It

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is a *Quarre* ſurrounded with a covered way, and joined with two lines of communication from the main battery, as alſo a line of communication from the main gate to a redoubt, which is to prevent the landing. It is well ſituated near the channel, to hinder ſhips from coming up to the town, which muſt all come within piſtol ſhot of this battery. It is mounted with 100 pieces of cannon, ſeveral of which are placed on a platform, near high-water mark, ſo as to rake a ſhip fore and aft, before ſhe can bring her broadſides to bear againſt the caſtle, and ſome of theſe cannon carry 42 pounders. In peace there is an independent company of 50 or 100 men, I am not certain which, that conſtantly are on duty; but in time of war 500 able men are exempted from all other military duty, to attend the ſervice of the caſtle at an hour's warning, upon any ſignal given of the approach of an enemy. To prevent the caſtle's being ſurprized, there is a light-houſe built on a rock, appearing above water two leagues from the town, which makes a ſignal to the caſtle of the approach of any ſhips, and their number.

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The caſtle again warns the town, and if there be five ſhips or more in time of war, an alarm is given to all the adjacent country by firing a beacon. The province has alſo a galley or frigate well manned in time of war, to guard the coaſt from privateers, and to convoy their home trade. In ſhort, nothing that could be done for defence of the ſubject by ſea or land, has been left undone. It is really aſtoniſhing to conſider, and difficult to believe, that theſe little governments ſhould be able by their own ſtrength, and at their own charge, to perform ſuch great things.

And yet this is not all that muſt be ſaid in their defence. For, as I have before obſerved, they have diſcovered a noble zeal to enlarge the Britiſh empire, by undertaking ſeveral chargeable expeditions againſt the ſtrongeſt French ſettlements in America. In the year 1690 they made an armament againſt Port-Royal, which was a neſt of privateers, and a Dunkirk to the American trade; beſides that it was the head quarter, from whence parties of French and Indians iſſued out, and fell upon the eaſtern parts

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of New-England. They made themſelves maſters of the place with all the country of Acadie, and Sir William Phipps, who commanded in chief, adminiſtered to the inhabitants an oath of allegiance to the crown of England; in which ſtate that country remained till the peace of Ryſwick, when it was delivered up to the French. The great ſervice done the crown by this acquiſition, is now too well known to need being particularly mentioned.

The New-Englanders being willing to purſue this good ſucceſs, made an attempt againſt Canada the ſame year, with a fleet of 32 ſail of veſſels, beſides tenders, having on board 2000 men, whilſt at the ſame time a little army of 1000 Engliſh and 1500 Indians were to march by land and attack Montreal. 'Tis true, they fatally miſcarried (and who can anſwer for the fortune of war?) but this ought not to leſſen the merit of the enterprize, which they ſo well intended, and by which they ſo greatly ſuffered. It coſt 150,000l. in money, and what was infinitely more valuable, the lives of 1000 men. Nor were

theſe vagrants, ſuch as are picked up here in the ſtreets, and diſorderly houſes, and thence preſſed into the war, but heads of families, artificers, and robuſt young men, ſuch as no country can ſpare, and leaſt of all new ſettlements, where labour is the deareſt thing in the world, becauſe nothing ſo much wanted as hands. They did not indeed fall by the ſword of the enemy, if that could alleviate their misfortune, but by a camp fever, by famine, and various diſaſters in their return home, occaſioned chiefly by the early approach of a ſevere winter, which made it impracticable for proviſions to follow them.

Great was the diſtreſs to which theſe poor colonies were reduced by this expenſive and improſperous expedition; yet by the wiſe conduct of the governments, and the induſtry of the people, they ſo well recovered themſelves in leſs than 20 years, as to reſolve upon making another viſit to their French neighbours, whom they ſaw daily growing in power, and threatning in time to deſtroy all the Engliſh ſettlements. But not thinking themſelves ſtrong

enough

enough to deal with Quebec, they were content to make only an attempt on Port Royal, which was done accordingly, tho' not with the former ſucceſs, the French fort being now ſtrong and regular, and well provided for a defence or ſiege.

Not diſcouraged by this repetiton of misfortunes, when the late Queen ſignified to theſe governments, her royal intention to reduce Canada, and required them to provide their quota of troops; it can't be imagined with what alacrity they came into it, and made in all reſpects ample proviſion for it. And tho' the court altering their meaſures did not ſee meet at that time to proceed in the deſign, the colonies were put to near the ſame charge as if they had.

The next year they raiſed a body of troops again, which, commanded by Col. Nicholſon, with 500 auxilaries from hence, made another deſcent upon Port-Royal, and reduced it. For which ſervice they were promiſed by her Majeſty conſiderable advantages in reſpect of trade and the fiſhery, to which its hoped a juſt regard

will be had, when Nova-Scotia is brought under a civil eſtabliſhment.

One may imagine now that theſe colonies were quite out of breath, and need a little reſt. Yet preſently after, when the great unfurtunate expedition was ſet on foot againſt Canada under the command of General Hill and Admiral Walker, they furniſhed more than the quota aſſigned them, and provided all neceſſaries for the Britiſh troops in ſo ſhort a time, that if they had not been animated by an extraordinary zeal, would not have been poſſible. And notwithſtanding ſome people found it neceſſary to blame New-England, the better to excuſe themſelves, yet it has been acknowledged to me by Engliſh gentlemen, who were then on the ſpot, and well experienced in theſe affairs, that ſuch a fleet and army wanting the neceſſaries they did, could not have been diſpatched on ſo ſhort warning from any port in England.

My anſwer to this article of accuſation would be imperfect, if I did not ſtill further obſerve, that theſe governments have aſſiſted and relieved the moſt diſtant

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of his Majeſty's iſlands, and the remoteſt ſettlements on the continent, when in diſtreſs, upon no other inducement, than that of being their fellow ſubjects. I will give two or three examples.

When in the year 1703, or about that time, Jamaica was in fear of an invaſion, and deſired ſome help from the government of the Maſſachuſets; they, notwithſtanding the length of the voyage, which is often eight or nine weeks, ſent them two companies of foot, commanded by Col. Walton and Capt. Larimore, both very gallant officers. The companies arrived ſafe, and ſerved there two years, ſometimes on ſhore, and at other times as marines on board the man of war, then in the ſervice of the iſland; and I believe very few of theſe ſoldiers ever returned to their native country.

In 1705, when Nevis was plundered and ruined by Ibberville, New-England charitably, and of their own accord, raiſed 2000l. for their relief; which they ſent in two veſſels, having each 1000l. on board in flour and ſalt proviſions for their ſubſiſtance,

ſiſtance, and in materials for rebuilding their houſes and mills. This they did generouſly, neither deſiring nor receiving any returns, when that iſland came into more proſperous circumſtances.

And now lately, when Carolina was engaged in a war with the Spaniſh Indians, and wanted arms and ammunition, they were ſupplied with both from Boſton.

Upon the whole, what a vaſt fund of merit have the charter governments raiſed to themſelves from a long ſeries of faithful and heroic ſervices! And how ſtrangely out of countenance muſt this objection look, *that they have neglected the defence of the inhabitants!* I have only to wiſh, that his Majeſty and his miniſtry had leiſure from the important affairs of the nation, and of Europe, to conſider their merit, and then I aſſure myſelf, inſtead of depriving them of their preſent privileges, they would continue them for ever; and if there was room for it, add as many more.

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The 2d Charge in the Bill againſt the Charter Governments, that they have exerciſed arbitrary Power, anſwered.

THE other charge in the bill is, *that they have exerciſed arbitrary power.* If this be aimed at the proprietary governments, which however I don't accuſe, I have nothing to ſay, but I am ſure that the charter governments ſtand clear of it. The thing ſpeaks loudly for itſelf. For the governments, where there are charters, and thoſe charters entire, all officers civil and military are elected by the people, and that annually; than which conſtitution nothing under heaven can be a ſtronger barrier againſt arbitrary rule. For ſhould it be allowed, that the people, *corrupted* or *deceived,* might inſtead of wiſe magiſtrates chuſe tyrants and oppreſſors to lord over them one year; yet it can't be imagined, that after they have felt the ſmart of it, they will do ſo the next. Nor can there be a greater obligation on the rulers themſelves to adminiſter juſtice than that their election

election depends on it the next year. Hence the frequent choice of magiſtrates has been a main pillar, upon which all who have aimed at freedom in their ſchemes of government have depended.

As the reaſon is inconteſtible, ſo the fact is apparent, that theſe governments, far from retrenching the liberty of the ſubject, have improved it in ſome important articles, which the circumſtances of things in Great-Britain perhaps don't require, or won't eaſily admit.

To inſtance in a few: There has been from the beginning an office erected by law in every county, where all conveyances of land are entered at large, after the grantors have firſt acknowledged them before a juſtice of peace; by which means much fraud is prevented, no perſon being able to ſell his eſtate twice, or take up more money upon it than it is worth. Proviſion has likewiſe been made for the ſecurity of the life and property of the ſubject in the matter of juries, who are not returned by the ſheriff of the county, but are choſen by the inhabitants of the

town

town a convenient time before the ſitting of the courts. And this election is under the moſt exact regulation, in order to prevent corruption, ſo far as human prudence can do it. It muſt be noted, that ſheriffs in the plantations are comparatively but little officers, and therefore not to be truſted as here, where they are men of ample fortunes. And yet even here ſuch flagrant corruptions have been found in returning juries by ſheriffs, that the houſe of Commons thought it neceſſary, in their laſt ſeſſion, to amend the law in this point, and paſſed a bill for chooſing them by ballot.

Redreſs in their courts of law is eaſy, quick and cheap. All proceſſes are in Engliſh, and no ſpecial pleadings or demurrers are admitted, but the general iſſue is always given, and ſpecial matters brought in evidence; which ſaves time and expence; and in this caſe a man is not liable to loſe his eſtate for a defect in form, nor is the merit of the cauſe made to depend on the niceties of clerkſhip. By a law of the country, no writ may be abated for a circumſtantial error, ſuch as a ſlight miſ-nomer or any informa-

lity. And by another law, it is enacted, that every attorney taking out a writ from the clerk's office, ſhall indorſe his firname upon it, and be liable to pay to the adverſe party, his coſts and charges, in caſe of non-proſecution or diſcontinuance, or that the plaintiff be non-ſuit, or judgment paſs againſt him. And it is provided in the ſame act, that if the plaintiff ſhall ſuffer a non-ſuit by the attorney's miſlaying the action, he ſhall be obliged to draw a new writ without any fee, in caſe the party ſhall ſee fit to revive the ſuit. I can't but think that every body, except gentlemen of the long robe, and the attornies, will think this a wholſome law, and well calculated for the benefit of the ſubject. For the quicker diſpatch of cauſes, declarations are made parts of the writ, in which the caſe is fully and particularly ſet forth. If it be matter of account, the account is annexed to the writ, and the copies of both left with the defendant; which being done fourteen days before the ſitting of the court, he is obliged to plead directly, and the iſſue is then tried. Whereas by the practice of the court of

King's-

King's-Bench, three or four months time is often loſt after the writ is ſerved, before the cauſe can be brought to iſſue.

Nor are the people of New-England oppreſſed with the infinite delays and expence which attend the proceedings in Chancery, where both parties are often ruined by the charge and length of the ſuit. But as in all other countries, England only excepted, *jus & æquum* are held the ſame, and never divided; ſo it is there: a power of Chancery being veſted in the judges of the courts of common law as to ſome particular caſes, and they make equitable conſtructions in others. I muſt add, that the fees of officers, of all ſorts, are ſettled by acts of aſſembly at moderate prices, for the eaſe of the ſubject.

It were eaſy to mention other articles, but that I perſuade myſelf it is needleſs. The charter governments are celebrated for their excellent laws, and mild adminiſtration; for the ſecurity of liberty and property; for the encouragement of virtue and ſuppreſſion of vice; for the promoting letters, by erecting free-ſchools and colleges;

and, in a word, for every thing that can make a people happy and profperous. To thefe arts it is owing, that New-England, though fhe has attained but little more than the age of a man, with all the difadvantages under which fhe labors in refpect to her trade and climate, and almoft a perpetual Indian war, has hitherto flourifhed far above any other of the plantations.

This being the cafe of the charter governments, let us turn the tables, and fee how it fared with them when in an *evil reign* they loft their charters. Then the governor of New-England, with four or five ftrangers of his council, men of defperate fortunes, and bad principles, made what laws, and levied what taxes they pleafed on the people. They, without an affembly, raifed a penny in the pound on all the eftates in the country, and another penny on all imported goods, befides twenty pence per head as poll money, and an immoderate excife on wine, rum, and other liquors. Several worthy perfons having, in an humble addrefs repreferted this proceeding as a grievance, were committed to the common goal for a high

high miſdemeanor; denied the benefit of the habeas corpus act; tried out of their own county; fined exorbitantly, and obliged to pay 160l. for fees, when the proſecution would hardly have coſt them ſo many ſhillings in Great-Britain. And to compleat the oppreſſion, when they, upon their trial claimed the privileges of Engliſhmen, they were ſcoffingly told, *thoſe things would not follow them to the ends of the earth.* Unnatural inſult; muſt the brave adventurer, who with the hazard of his life and fortune, ſeeks out new climates to enrich his mother country, be denied thoſe common rights, which his countrymen enjoy at home in eaſe and indolence? Is he to be made miſerable, and a ſlave by his own acquiſitions? Is the labourer alone unworthy of his hire, and ſhall they *only* reap, who have neither ſowed nor planted? Monſtrous abſurdity! Horrid inverted order!

Theſe proceedings, however arbitrary and oppreſſive, were but the prelude: the cataſtrophe was, if poſſible, yet more diſmal. Having invaded their liberties, by an eaſy tranſition the next attack was directly on their

their properties. Their title to their lands was abſolutely denied by the governor and his creatures, upon two pretences: one, that their conveyances were not according to the law of England; the other, that if they might be thought to have had ſomething like a title formerly, yet it now ceaſed by the revocation of their charters. So that they who had fairly purchaſed their lands, and held them in quiet poſſeſſion for above fifty years, were now obliged to accept new deeds from the governor, and pay for them a third part of their value, in order to aſcertain their titles, or otherwiſe they would be ſeized for the crown.

It would be an injury to virtue, if I did not in this place pay diſtinguiſhed honor to the memory of an honeſt and worthy patriot, Col. Shrimpton, long ſince deceaſed, who being rich in lands, was courted to receive new patents *gratis*, that others might be drawn in by the authority of his example; but when he was apprized of their deſign, he choſe rather to have his lands ſeized (and they we e ſeized) than by ſuch a baſe compliance betray his countrymen into the ſnares

prepared

prepared for them. I ſhould not have thus far entered into the detail of things ſo long paſt, but to ſhow from experience, as well as from the reaſon and nature of the thing, that charters are not the *cauſes* of arbitrary government, but indeed *ſtrong works* raiſed againſt it, which once thrown down, oppreſſion ruſhes in like a tide, and bears down every thing before it.

Having thus anſwered the allegations of the bill, in a manner which I hope may be ſatisfactory, I am next to conſider ſuch arguments as I have met with in converſation from perſons in the miniſtry and others.

The third Objection, that the Acts of Trade are diſregarded, anſwered.

WHAT I have heard moſt inſiſted on is, *That the Acts of Trade and Navigation, made on purpoſe to render the plantations beneficial to Great-Britain, are diſregarded in the charter governments; and that this evil cannot be effectually cured, but by a reſumption of the charters.*

To

To which I anſwer very particularly and diſtinctly.

1ſt. The complaints on this head are for the moſt part of an old date, and when the bill againſt the charters was depending in the houſe of Commons, were produced from the files of the Plantation Board, whither they had been tranſmitted in former reigns, when cuſtom-houſe officers in the plantations were ſuch great rarities, that One collector ſerved Four entire provinces. And can it be thought ſtrange that merchants, whoſe buſineſs is gain, ſhould have ſometimes for lucre tranſgreſſed the acts of trade, when there were no officers to ſee them duly obſerved? The caſe is vaſtly different now. Officers of the revenue are multiplied, and are extremely rigorous, ſo that inſtead of *their* complaints of unfair traders, the merchants on the other hand, greatly complain of the oppreſſion of the officers. I have ſeen an account of ſuch intolerable hardſhips impoſed on fair well-meaning traders, under colour of law, that one would hardly give credit to the leaſt of the articles, if the whole had not been delivered publickly in

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an aſſembly of one of the provinces by a worthy member, and afterwards printed with his name to it. The author I refer to, after a recital of the ſeveral facts, in which he is very full as to every circumſtance, draws up this melancholly concluſion, That the cuſtom-houſe officers had, by their violent practices, either ſeized or driven away all the veſſels belonging to that part of the country, ſo that they had no ſloops left to carry their produce to market in the adjacent colonies.

2dly. If there be ſome *late* complaints, perhaps upon examination, they will appear to be ill-grounded. I can ſpeak this knowingly with reſpect to a complaint, tranſmitted not long ſince by the ſurveyor-general of North-America and the collector of New-London, againſt his Majeſty's colony of Connecticut. Theſe gentlemen, one or both of them, drew up a charge againſt that innocent and loyal colony in very ſevere terms, as *ſetting the laws of trade and navigation at the utmoſt defiance.* Whereas, in truth and in fact, the inſtances they produced of ſuch defiance were clear

proofs of that colony's inclination to ſupport the laws of trade and their own traffick; and on the contrary, what the cuſtom-houſe officers inſiſted on was manifeſtly ſubverſive of both, and could ſerve no end in the world but enhancing the collectors fees. The caſe is this: There are on the coaſt of his Majeſty's colony of Connecticut eight convenient ports or harbours for ſhipping. The government there did from the beginning, place a naval officer in each of them, to ſee that the ſeveral acts of trade were duly obſerved. After the act of the 7th and 8th of King William, the collector of the colony appointed a deputy in each of the ports, who required all maſters of veſſels, outward and inward-bound, to enter and clear with him as well as with the naval officer, whether they had any goods on board paying a duty to the crown or not; which they ſubmitted to, tho' not obliged by law, as Sir William Thompſon, the late ſollicitor general, has upon a full and impartial ſtate of the caſe given his opinion. The preſent collector, thinking it beſt to receive all the fees himſelf, refuſes

to

to make any deputations, or allow the power of the naval officers to be ſufficient in his abſence, but commands all maſters of veſſels whatſoever to repair to the port of his reſidence, and there to enter and clear with him: by which regulation ſeven of the eight ports are left open for illegal traders, to the great detriment of the crown; whilſt, with equal injury to the ſubject, ſloops ſailing from one town to another, or perhaps to a neighbouring province with no better a cargo than a few deals and turnips, ſhall be obliged to go ſometimes 120 miles out of their way, which often happens to be further than the port of delivery, to find the collector. The agent for the colony has fully repreſented this hardſhip to the commiſſioners of the cuſtoms, and ſhewn the injury that will be done to the King as well as the ſubject by this eſtabliſhment; but all in vain, there is no redreſs; and what puts one out of all patience, this very caſe is cited as one allegation among others to ſupport the general charge againſt the charter govern-

ments, that they carry on an illegal commerce.

3dly. If it were true, that ſome perſons did now and then concern themſelves in an illegal trade, can it be thought juſt or reaſonable that the whole community ſhould ſuffer for their private fault? No body will ſay that the acts of trade are perfectly obſerved in the provinces immediately under the crown, or in Great-Britain itſelf. I believe there is no corporation in the kingdom, being a ſea port, wherein there are not at ſome time or other contraband goods imported, or other goods clandeſtinely run, to the prejudice of the King's duties. In this port of London great abuſes are daily committed in ſpight of the utmoſt vigilance to prevent them. The fraud of relanding callicoes after a pretended exportation, only to receive the drawback, is a moſt flagrant inſtance, if one either conſiders the perjuries that attend it, or the immenſe ſums that are thereby robbed from the publick, or the vaſt injuries that are done by it to the honeſt linen-draper. And yet, whoever uſed this, or any other cheat of the like

like kind, as an argument to disfranchiſe this ancient corporation? The rule of law is, *Noxa Caput ſequitur*; and it is agreeable to natural juſtice, that every man ſhould ſuffer for his own tranſgreſſion. On the other part, if a corporate body were to forfeit their privileges for every private perſon's offence, they would be of no value. A charter ſo limited could not ſtand a week, nor would be worth the expence of the great-ſeal.

4thly. I might ſtill make a further remark. If the grievances complained of were not antiquated ſtories, but ſubſiſting at this time; if they were fairly repreſented; and laſtly, if it were equitable, that the crimes of perſons in a private capacity ſhould be expiated by the publick, yet no concluſion could be drawn from theſe premiſes prejudicial to the charters, becauſe the diſſolving them would be no remedy in any ſort. The reaſon is plain, that putting this caſe, not only the inſpection of trade, but the proſecution, trial, and puniſhment of every offender would reſt in the ſame hands, and be carried on in the

ſame manner as before. All the officers of the revenue are *in the preſent ſtate of things* appointed by the crown; all breaches of the acts of trade, ſaving a ſingle one excepted by act of parliament, are cognizable only in the court of admiralty, where the judge and every inferior officer are created either by commiſſions under the broad ſeal, or by warrants from the Lord high admiral. The laws of the country are not pleaded in that court, but acts of parliament, and where they are ſilent, the civil and maritime laws take place. The forms of proceeding, were *they* of any conſequence, are regulated after the manner practiſed in Doctors Commons. If then his Majeſty ſhould reſume the charters, nothing more could be done to preſerve the acts of trade than is at preſent, and therefore how plauſible ſoever this pretext may appear at firſt ſight, it is plain, upon a nearer view that there is no weight in it.

I am apprized that the judge of the vice-admiralty in New-England has often complained home of the frequent prohi-

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bitions ſerved on him from the courts of judicature there, which he ſays, *Weaken, and in a manner ſuppreſs the authority of that court, and all the good ends for which it was conſtituted.* But neither does this matter in the leaſt relate to the charters, tho' there were reaſon for the complaint, as on the other hand, I ſhall immediately ſhow there is none. The right of the courts of common law within the province of the Maſſachuſets, to reſtrain the exceſſes of the admiralty juriſdiction, are not derived from their charter, but from ſubſequent laws of the province, confirmed afterwards by the crown; which power therefore, whether the charters ſtand or fall, will remain unhurt, and ſtill the ſame. But the manner of this complaint is wholly groundleſs, which I muſt particularly ſhow, becauſe a handle has been taken from it to hurt New-England in its charters. I therefore take leave to ſay, That the ſuperior court of judicature for the province of the Maſſachuſet's Bay has a legal power to iſſue prohibitions to the court of vice-admiralty: that it is very fitting and neceſſary ſuch a

power

power ſhould be lodged in that court: and, laſtly, that the particular caſes wherein the judges of that ſuperior court have hitherto exerciſed this power, were apparently without and beyond the admiralty juriſdiction.

To begin with the power itſelf: 'Tis founded on an act of the aſſembly paſſed in the 11th year of King William, and by him confirmed, entitled, *An act for eſtabliſhing a ſuperior court of judicature, court of aſſizes and general gaol delivery.* The act after a recital of ſeveral powers veſted in the court, has this general clauſe: *And the ſaid court is hereby veſted with the ſame power as fully and amply to all intents and purpoſes whatſoever as the courts of* King's bench, Common-pleas and Exchequer *within his Majeſty's kingdom of* England *have or ought to have.* By conſequence then, if the court of *King's-bench* has a power to reſtrain the court of *admiralty* in England, this court of judicature muſt have the ſame in New-England.

The reaſons for ſuch a reſtraining power are as ſtrong in New-England as in Great-Britain.

Britain. It has been ever boaſted as the peculiar privilege of an Engliſhman, and the grand ſecurity of his property, to be tried by his country and the laws of the land; whereas this admiralty method of trial deprives him of both, as it puts his eſtate in the diſpoſal of a ſingle perſon, and makes the civil law the rule of judgment; which though it may not perhaps properly be called foreign, being the law of nations, yet 'tis what he has not conſented to himſelf, or his repreſentative for him. A juriſdiction therefore ſo founded ought not to extend beyond what neceſſity requires, that is, to nothing but what is really tranſacted on the high ſeas, which not being *infra corpus comitatus*, is not triable at common law. If ſome bounds are not ſet to the juriſdiction of the admiralty, beyond which it ſhall not paſs, it may in time, like the element to which it ought to be confined, grow outrageous and overflow the banks of all other courts of juſtice. This danger is ſtill greater in the plantations, where neither the judge nor any of the inferior officers of the

admiralty have ſalaries, or perhaps other dependance, than upon what they get by their fees, and therefore muſt be ſtrongly tempted to receive all buſineſs that comes before them, however improper for their cognizance.

In vain do the advocates for the admiralty urge on this occaſion, that an appeal lies home, and therefore, if a cauſe tried there be found to be *coram non judice*, juſtice will be done to the injured party on the appeal. For if this argument has any force, it would take place in England, becauſe an appeal lies here from the ſentences of the admiralty to the court of delegates, and yet that is not thought a ſufficient reaſon to prevent the court of King's-Bench from granting prohibitions when they think them neceſſary. Beſides it is to be remarked, that the appeal does not lie to the King and council as it does from other courts, but to the judge of the admiralty, and therefore one may imagine that the appellant will have but a *cold cauſe* of it; for I believe it has been rarely found that

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any court was forward to limit its own power.

If then the court of judicature in New-England has a right in general to award prohibitions againſt the court of vice-admiralty, there will, I believe, be no diſpute as to the particular inſtances wherein they have exerciſed the power. Hitherto there have been but three; nor did the judges come into theſe, but upon ſolemn argument firſt had before them by the ableſt lawyers on the ſpot. Not that I ſuppoſe there was real difficulty, but it being a caſe *prima impreſſionis* in that country, 'twas thought proper to proceed ſo deliberately.

One prohibition was granted on a libel filed upon the wool act of the 10th and 11th of William III. which provides, That all offences therein mentioned ſhall be tried in ſome *court of record*, which 'tis certain the court of admiralty is not. Another was iſſued to ſtop proceedings in a cauſe which had been tried before at common law, and received the judgment of the court. If the court of vice-ad-

miralty ſhould aſſume ſuch a prerogative as this, inſtead of being confined to maritime affairs, it would be the ſupreme court in all cauſes, and the *dernier reſort* of juſtice. The third prohibition was upon a charter party made and executed upon the land with a penalty under the hand and ſeal, which nevertheleſs was libelled in the court of admiraly, and the judge would very gravely have heard and determined it, on a colour of it's having relation to a voyage, or at leaſt to ſomething which was to be performed on the ſeas. Altho' this is ſo far from being a good reaſon, that there are many caſes in the books, where a cauſe has been *wholly maritime*, and even the contract made upon the high ſeas, yet, becauſe it was reduced to writing afterwards, and ſealed on the ſhore, it has been judged to be without the admiralty juriſdiction. My Lord Coke is ſo clear and full upon this ſubject, and the limits of the admiralty juriſdiction are ſo exactly deſcribed in the ſeveral acts of parliament made for this end, to ſay nothing of the caſes in the books, where great

great damages are given for infringing the rights of the common law, that I ſhall refer to them,* and purſue this argument no further.

The 4th Objection, That they have made laws repugnant to the laws of Great-Britain, anſwered.

ANOTHER thing alledged againſt the American charters is, *That their governments have made laws repugnant to the laws of Great-Britain, contrary to the powers given them, and thereby have incurred a forfeiture of the charters.*

* Vid. *My Lord* Coke's *fourth* Inſtitutes, *as alſo the ſeveral Statutes of* 13 R. 2 cap. 5. 15 R. 2. cap. 3. *By the ſtatute of the* 2d. H. 4. cap. 11. *in caſe a matter triable at common law be brought into the court of admiralty, the party grieved ſhall recover double damages. See the ſtatute* 27 Eliz. cap. 11. *as alſo the caſes in the books, particularly that of Sir* Joſiah Child, *and* Sands *in* Salk. 31, 2. *where an action was brought on the ſtatutes of* 13 R. 2. 15 R. 2. *and* 2 H. 4. *for arreſting a ſhip by admiralty proceſs, the matter not being within the cognizance of that court; and though there was no ſuit, nor any plaintiff or defendant, yet it was held to be a proſecution, and double damages were recovered. Error was afterwards brought, and the judgment affirmed.*

If the Maſſachuſet charters were ſingly in queſtion, this allegation would have no place, becauſe no act paſſed by that aſſembly has the force of a law till the King's governor has aſſented to it, and then it comes home for his Majeſty's approbation, who, if he pleaſes, annuls it. There is therefore no danger of their making laws repugnant to the laws of Great-Britain; or if they ſhould, there being a remedy always at hand, if it be not made uſe of, the fault will lie ſome-where elſe, and can't affect the province.

But let us examine a little, whether any of the other governments acting under charters, may deſerve this cenſure; in order to which we muſt conſider what this phraſe [REPUGNANT TO THE LAWS OF ENGLAND] imports. I believe it will be eaſily allowed, that a law may be *various* from the laws of England, and yet not repugnant to them; or otherwiſe theſe governments muſt make no laws at all, which no body will ſay, who knows that a right of legiſlature, is the moſt eſſential part of their charters, and what indeed the reaſon and nature of the thing make abſolutely neceſſary. Every country has

has circumſtances peculiar to it ſelf in reſpect of its ſoil, ſituation, inhabitants, and commerce, to all which, convenient laws muſt, with the niceſt care and judgment, be adapted; whereas the laws of England are calculated for their own meridian, and are many of them no ways ſuitable to the plantations, and others not poſſible to be executed there.

This point, however clear and evident, has not been always rightly underſtood. There was a pretty extraordinary inſtance of it a few years ſince, with reſpect to a law in force in Carolina for chuſing jury-men by ballot. This was part of their original body of laws framed by the famous Earl of Shaftsbury, and what they had found by experience, a great preſervative to their liberties and properties. Yet I don't know how it happened, the Lord Palatine, and other Lords, proprietors of that province, imagining this law to be repugnant to the laws of Great-Britain, and that they ſhould thereby incur a forfeiture of their charter, directed their landgraves to get it repealed. The people in that government, unwilling

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to part with what they ſo much eſteemed, ſent over two deputies expreſs to ſet the matter in a fair light before their lordſhips. When they arrived, I accompanied them at their deſire to the board, where after ſome ſhort debates, we ſatisfied their lordſhips that their charter could be in no danger on this account, and that one law might be various from another without being repugnant to it.

Having premiſed this diſtinction, I anſwer the queſtion in direct terms, That *then a law in the plantations may be ſaid to be repugnant to a law made in* Great-Britain, *when it flatly contradicts it, ſo far as the law made here mentions and relates to the plantations. Contraria ſunt ad idem*: and therefore one thing cannot be ſaid to be contrary to another, that does not immediately relate to it, and diametrically oppoſe it. For the purpoſe, if a law paſſed here has its force reſtrained to England, Wales, and the town of Berwick on the Tweed, no law in the plantations can properly be ſaid to repugn it; becauſe whatever diverſity there may be between them, yet one having no manner of relation

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to the other, they are not repugnant. I believe I am right in my logick, but am ſure I am as to the legal acceptation of the phraſe, becauſe what I advance is founded on the words of the act of parliament. It is the 7th & 8th of King William, which (Cap. 22. Sect 9th) enacts, *That all laws, by-laws, uſages or cuſtoms at this time, or which hereafter ſhall be in practice, or endeavoured or pretended to be in force or practice, in any of the plantations, which are in any wiſe repugnant to the before-mentioned laws or any of them,* ſo far as they do relate to the ſaid plantations or any of them, *or which are any ways repugnant to this preſent act, or to any other law hereafter to be made in this kingdom,* ſo far as ſuch law ſhall relate to and mention the ſaid plantations, *are illegal, null and void, to all intents and purpoſes whatſoever.* If then we will take the ſenſe of the phraſe from an act of parliament, (and where can we have a better expoſitor?) no man will pretend that there was ever a law made in the plantations repugnant to the laws of Great-Britain. And yet I am apt to think, that if an aſſembly ſhould do a thing ſo illegal, they ought to

be puniſhed for it themſelves, and not their conſtituents. They were choſen and delegated by the people to frame laws according to the powers given them by their reſpective charters, which if they exceed, why ſhould a whole country ſuffer for their offence? This would be puniſhing the innocent for the guilty, and is not agreeable to the law in other caſes, where, if the truſtee does any act that is illegal and beyond his truſt, the *Ceſtuy q. Truſt* is not obliged by it, nor to be hurt for it.

If the words will receive any other conſtruction than what the act of parliament has put upon them, I think it muſt be ſuppoſed to be this; that the patentees ſhall not, under colour of their particular charters, preſume to make any laws inconſiſtent with the great charter and other laws of England, by which the lives, liberties and properties of Engliſhmen are ſecured. It ſeems reaſonable enough to think that the crown might intend by this injunction to provide for all its ſubjects, that they might not be oppreſſed by arbitrary power; but in whatever diſtant part of the world they were

ſettled,

ſettled, being ſtill ſubjects, they ſhould have the uſage of Engliſhmen, be protected by the ſame mild laws, and enjoy the ſame happy government, as if they continued within the realm. Conſider the expreſſion in this light, and the colonies (which I am defending) are ſtill ſafe, having in no reſpect impaired, but many ways improved, the liberty of the ſubject, as I have before ſhown under another head. If hereafter ſo unaccountable a thing ſhould happen, that thoſe privileges which were deſigned as fences againſt oppreſſion and deſpotic power, prove the means to introduce both, and the body of the people ſhould petition to be relieved from the yoke of their charters, for my part, I'll be no longer an advocate for them. Only, in the mean time, I heartily wiſh they may not be diſturbed, but reſt in peace till then.

A 5th Objection, that the Charter Colonies will grow great and formidable, anſwered.

THERE is one thing more I have heard often urged againſt the charter colonies, and indeed 'tis what one meets with

from people of all conditions and qualities, though, with due reſpect to their better judgments, I can ſee neither reaſon nor colour for it. 'Tis ſaid, *that their increaſing numbers and wealth, joined to their great diſtance from Great Britain, will give them an opportunity, in the courſe of ſome years, to throw off their dependance on the nation, and declare themſelves a free ſtate, if not curbed in time, by being made entirely ſubject to the crown.* Whereas in truth there is no body, though but little acquainted with theſe, or any of the northern plantations, who does not know and confeſs, that their poverty and the declining ſtate of their trade is ſo great at preſent, that there is far more danger of their ſinking, without ſome extraordinary ſupport from the crown, than of their ever revolting from it. So that I may ſay without being ludicrous, that it would not be more abſurd to place two of his Majeſty's beefeaters to watch an infant in the cradle that it don't riſe to cut its father's throat, than to guard theſe weak infant colonies to prevent their ſhaking off the Britiſh yoke. Beſides, they are ſo diſtinct from one another in their

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forms of government, in their religious rites, in their emulation of trade, and conſequently in their affections, that they never can be ſuppoſed to unite in ſo dangerous an enterprize. It is for this reaſon I have often wondered to hear ſome great men profeſs their belief of the feaſibleneſs of it, and the probability of its ſome time or other actually coming to paſs, who yet with the ſame breath adviſe that all the governments on the continent be formed into one, by being brought under one vice-roy, and into one aſſembly. For ſurely if we in earneſt believed that there was, or would be hereafter, a diſpoſition in the provinces to rebel and declare themſelves independent, it would be good policy to keep them diſunited; becauſe if it were poſſible they could contrive ſo wild and raſh an undertaking, yet they would not be hardy enough to put it in execution, unleſs they could firſt ſtrengthen themſelves by a confederacy of all the parts.

But to return from this ſhort digreſſion: our neighbours in Holland, who are allowed to be a wiſe ſtate, did not entertain theſe jealouſies of their ſubjects in India, when

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they were a young and growing plantation, nor do they even now, when they are a potent flouriſhing people. Had they done ſo, and in conſequence of it reſtrained and checked them, Holland would not at this day have drawn ſuch immenſe riches from that part of the world, and furniſhed all Europe with Indian commodities. And yet what reaſon can be aſſigned for the jealouſies we entertain of our colonies, which the Dutch have not, and far ſtronger with reſpect to their Batavian ſubjects? If the diſtance be urged as an argument, every body knows that New-England is but a thouſand leagues from the Britiſh ſhore, but the Dutch muſt run eight times that ground from Amſterdam before they arrive at Batavia. Or if the number and power of the inhabitants ſhould give any umbrage, this is an article which with reſpect to Batavia won't admit of the moſt diſtant compariſon. The general of that place maintains a port ſuperior to many ſovereign princes in Europe, and has all the Kings in Java in a manner tributary to him. He has 3000 ſtanding European troops, not

reckoning

reckoning the natives; and all the Dutch inhabitants live in that flowing wealth and plenty which makes Batavia look like the capital of a great and mighty empire. But do the States of Holland look on this their prosperous condition with envious or jealous eyes? Just the reverse; they do every thing in their power still to promote and advance it, well knowing their foreign plantations can't thrive, but they must receive the benefit of it themselves, and therefore justly esteem the wealth of their subjects abroad as their own riches. Why then should not Great-Britain form the same judgment, and proceed by the like measures in regard to her American dominions, from whence she receives the greatest advantages? It were no difficult task to prove that London has risen out of the plantations, and not out of England. 'Tis to them we owe our vast fleets of merchant ships, and consequently the increase of our seamen, and improvement of our navigation. 'Tis their tobacco, sugar, fish, oil, logwood, and other commodities, which have enabled us to support

our

our trade in Europe, to bring the balance of ſome countries in our favour, which would otherwiſe be againſt us, and to make the figure we do at preſent, and have done for near a century paſt, in all parts of the commercial world.

The mother kingdom muſt therefore needs rejoice in the proſperity of every one of her colonies, becauſe it is her own proſperity. The fable of the belly and members illuſtrates this argument. It would be unreaſonable for the belly to grudge the labour of digeſting the food and diſperſing the blood and juices to the extreme parts, ſeeing they return purified and exalted in the circulation. There is a cloſe analogy between the natural body and the body politick; as in the one a finger cannot ach, but the whole feels it, ſo in the other the remoteſt plantation can't decay, but the nation muſt ſuffer with it.

If it be ſaid that the charter colonies are not ſo valuable as ſome of the reſt, I anſwer, that the inhabitants have the more need of their charters to make them amends; for the people muſt have ſome

encouragement

encouragement to ſit down on a cold and barren ſoil. Yet I have ſhewn before, that they are many ways of great uſe and advantage to the crown; to which I add, that they will be more ſo than ever in a few years, to ſtrengthen the Britiſh empire in America againſt the formidable ſettlement of Louſiana, which for ſome years paſt has been carried on by the French with great expence, and with the utmoſt vigor and application.

This being the caſe, I think with humble ſubmiſſion, it is very prepoſterous to amuſe ourſelves with vain imaginary proſpects of what is ſcarce poſſible to come to paſs, and neglect doing what is abſolutely neceſſary; I mean, the enlarging and ſupporting our provinces, that they may be able to defend themſelves againſt being one day totally extirpated by a foreign power. And then I have only to ſuggeſt an old approved maxim, *That every thing is beſt preſerved by the ſame principles by which it was at firſt formed*, and conſequently the beſt method of encouraging the charter colonies is, to preſerve their privileges inviolate, without which they had never been ſettled.

The 3d Propoſition, That it is not the intereſt of the crown to reſume the charters if forfeited.

ANOTHER propoſition I advanced was, That if theſe governments ſhould be adjudged to have forfeited their charters back to the crown, yet it is

not the true intereſt of the crown to reſume them.

It is a generally received opinion, that the people in the plantations have an intereſt diſtinct from that of the crown; when it is ſuppoſed, at the ſame time, that the intereſt of the governors, they being the King's repreſentatives, are one with the crown; and from theſe premiſes it is concluded, that there cannot be too much power given to the governors, or too little to the people. Whereas, with humble ſubmiſſion, I conceive this to be a very wrong judgment, and that the reverſe of it is true. The only intereſt of the people is to thrive and flouriſh in their trade, which is the true intereſt of the crown and nation, becauſe they reap the profit of it. When, on the other hand, the view that governors generally have is private gain, which being too often acquired by diſcouraging and oppreſſing trade, is not only an intereſt diſtinct from that of the crown, but extremely prejudicial to it. The trade of a young plantation is like a tender plant, and ſhould be cheriſhed with the fondeſt care; but if, inſtead of that, it meets with the rough hand of oppreſſion, it will ſoon die. The proper nurſery for this plant is a free government, where the laws are ſacred, property ſecure, and juſtice not only impartially but expeditiouſly diſtributed. For to what purpoſe ſhall the merchant expoſe his eſtate to the danger of the ſea, the enemy, and

many

many more accidents, if after all he can't ſave it at home from rapine and violence?

As this is evident, ſo is it that whatever injures the trade of the plantations, muſt in proportion affect Great-Britain, the ſource and centre of their commerce; from whence they have their manufactures, whither they make their returns, and where all their ſuperlucration is lodged. The blow then may ſtrike the colonies firſt, but it comes home at laſt, and falls heavieſt on ourſelves.

That governors are apt to abuſe their power and grow rich by oppreſſion, experience ſhows us. We have ſeen, not many years ſince, ſome governors ſeized by their injured people, and ſent priſoners to Whitehall, there to anſwer for their offences. Others have fallen victims on the ſpot, not to the fury of a faction or rabble, but to the reſentment of the whole body of the people, riſing as one man to revenge their wrongs. Others, after being recalled, have been proſecuted at the King's-bench bar, purſuant to an act of parliament made in the reign of the late King William, whereby it is provided, That governors ſhall be impleaded at home for any injuries done in their governments abroad. We have had more than one flagrant inſtance of this very lately, where governors have been convicted and cenſured, not ſo properly for oppreſſing, as for a direct plundering their people; and ſuch other acts of miſ-rule and lawleſs power, as one would not have thought it poſſible they ſhould have committed, if experience

had not ſhown it to be more than poſſible.

I don't however intend, by what is here ſaid, to reproach our own nation, as if we were greater ſinners than others, or to reflect on the preſent times, as if they were worſe than the former. I know that the ſame abuſes have been practiſed in every age as well as this, and in foreign colonies as well as our own. The antient Romans were as brave and as virtuous a people as any in the world, and yet their pro-conſuls or governors were very guilty in this reſpect. Their corruption was ſo notorious as to be diſtinguiſhed by the name of *crimen repetundarum*, a phraſe not uſed in any other meaning, and derived from the obligation which the Roman ſenate laid on their governors to make reſtitution.

Nor have the modern governors in the French and Spaniſh plantations been leſs criminal. It's a famous ſtory of a great miniſter at the court of Madrid, who writ to his friend the vice-roy of Peru, that great complaints were made againſt him for having extorted immenſe ſums of money from the people in his government; *Which*, ſays he, *I wiſh may be true, or elſe you are undone*. It ſeems the ſame thing that wounded him, was neceſſary to heal him; and what put him out of favour, was the only thing that could reſtore him.

Indeed it can hardly be expected but theſe corruptions muſt happen, when one conſiders that few gentlemen will croſs the ſeas for a government, whoſe circumſtances are not

not a little ſtrait at home, and that they know by how ſlight and uncertain a tenure they hold their commiſſions; from whence they wiſely conclude, that no time is to be loſt. And then for the account to be rendered at home, that is not thought of at ſo great a diſtance, for *procul a Jove, procul a Fulmine*.

To enlarge then the powers of governors, is to give them greater power to oppreſs; and to vacate the charters, is to enlarge their power, the government in that caſe of courſe devolving upon them; as we ſee in thoſe plantations which never had any charters, but are immediately dependent on the crown. They have, in a manner, the intire legiſlative and executive powers, or at leaſt ſo great an influence on the conſtituent parts of the former, as leaves them little more than nominal ſharers, ſerving rather as ſcreens to the governor than a defence to the people. The militia is abſolutely veſted in the governors, which influences all elections of repreſentatives: they appoint judges, juſtices, ſheriffs, and other civil officers, with the conſent, it's ſaid indeed, of the council; but that ſuch conſent voluntary or involuntary will ever be refuſed, ſeems too much to be expected, if we conſider that although the governors do not indeed appoint the council, yet they recommend proper perſons to the King; and it may be ſuppoſed, that a gentleman who is entruſted with the chief command of a province, and is actually on the ſpot, will be thought the beſt judge who

are

are fit to ſerve, and therefore his recommendation will almoſt always prevail. Beſides, if there be a turn to ſerve, or an emergency real or imaginary, and any of the members ſhould be ſo refractory as not to give into his meaſures with an implicit faith, the governor can ſuſpend as many of them as he pleaſes; and when he has reduced the board under a number limited in his inſtructions, he can then fill it up to that number *inſtanter* with whom he pleaſes; and who will they be, may we preſume, but ſuch as are paſſively obedient to his will? And too many ſuch there are in all colonies ſo conſtituted, who are content to be *ſaddled* themſelves, provided they may *ride* others under the *chief rider*. I muſt farther obſerve, that where there are no charters, there are courts of equity eſtabliſhed, in which the governor is always chancellor, and for the moſt part chief juſtice, and ordinary at the ſame time; which puts the eſtates, lives and liberties of the inhabitants, ſaving the liberty of appeal home, intirely in his diſpoſal; and even an appeal, in all caſes under a conſiderable ſum, in all caſes of the ordinary juriſdiction, and in all caſes capital, is either diſallowed by his inſtructions, or wholly in the governor's breaſt to allow or not.

The ſum of my argument is, that the benefit which Great-Britain receives from the plantations, ariſes from their commerce: that oppreſſion is the moſt oppoſite thing in the world to commerce, and the moſt deſtructive

ſtructive enemy it can have: that governors have in all times, and in all countries, been too much inclined to oppreſs: and conſequently it cannot be the intereſt of the nation to increaſe their power, and leſſen the liberties of the people. I am ſo ſanguine in this opinion, that I really think it would be for the ſervice of the crown and nation, to incorporate thoſe governments which have no charters, rather than disfranchize thoſe that have.

The 4th Propoſition, That it ſeems inconſiſtent with juſtice to disfranchize the charter colonies by an act of parliament.

THE laſt thing I propoſed to conſider, was, how far it may be conſiſtent with juſtice, to deprive the colonies of their charters, without giving them a fair trial, or any previous notice.

It is certain, that bills of attainder, ſuch as this would be, have been ſeldom uſed in England, and then only upon the moſt extraordinary occaſions: as when flagrant crimes have been committed, of a new and unuſual nature, againſt which the law had made no proviſion; or when the witneſſes have avoided, and perhaps by the contrivance of the party; or laſtly, which is the moſt common caſe, when the attainted perſon having himſelf abſconded, and fled from juſtice, has thereby made ſuch an extrajudicial proceeding juſtifiable. It is alſo as certain that neither of theſe things can be pleaded in the preſent caſe, which I need not

not be particular in ſhewing, becauſe not ſuggeſted, nor is there the leaſt colour for ſuch ſuggeſtion. And yet I pretend to know the people in the charter governments ſo well, and to be ſo thoroughly acquainted with their meek principles of obedience, that I dare affirm, if ſuch an act ſhould paſs, however rigorous and ſevere they might think it within themſelves, they would not let fall an indecent word of their ſuperiors, but would receive the news with the loweſt ſubmiſſion: ſo great is their loyalty to the King, and ſo profound their regard for the reſolutions of a Britiſh parliament, the wiſeſt and moſt auguſt aſſembly in the world. However, ſeeing there is no ſuch act already paſſed, and it is to be hoped from the honor and juſtice of parliaments, never will, it can't be thought a crime modeſtly to ſtate the hardſhip of the caſe. I don't mean with reſpect to the merits of it, which have been already conſidered, but as to the *manner of proceeding by bill in parliament*. It is a moſt ſacred and unalterable rule of juſtice, and has ever been ſo eſteemed by all the civilized nations of the world, that no perſon be deprived of life, liberty or eſtate, till he has had time and opportunity to make his defence. And if the matter in judgment, be of great value, dearly paid for, and long enjoyed, it adds much to the weight of the argument, and aggravates the injury, in depriving the poſſeſſors unheard. Now this is the caſe of the charter governments. How great the purchaſe conſideration was,

has

has been before ſaid; but how valuable the charters themſelves are, can never be ſaid, liberty being ineſtimable. And for the time they have enjoyed them, were they not on record, it would be what the civilians call *immemorial*, one of them being above four-ſcore years ſtanding.

It ſeems therefore a ſeverity without a precedent, that a people who have the misfortune of being a thouſand leagues from their Sovereign, a misfortune great enough in itſelf, ſhould UNSUMMONED, UNHEARD, IN ONE DAY be deprived of all their valuable privileges, which they have enjoyed for near an hundred years. It's true, the legiſlative power is abſolute and unaccountable, and King, Lords and Commons may do what they pleaſe; but the queſtion here is not about *power*, but *right*: *and ſhall not the ſupreme legiſlature of all the nation do right?* One may ſay, that what the parliament can't do juſtly, they can't do at all. *In maximis minima eſt licentia.* The higher the power is, the greater caution is to be uſed in the execution of it, becauſe the ſufferer is helpleſs, and without reſort.

When in an arbitrary reign, the charter of New-England was vacated, a *quo warranto* firſt gave the colony notice to prepare for their trial. Although this was a proſecution at law, and the high court of parliament is not ſtrictly confined to the forms of the courts below, yet it is not doubted but the great fountain of law and juſtice will have ſome regard, if not to all the rules made for inferior judicatures, yet to ſuch as

are eſſential to juſtice. And ſo in other caſes it has. For the purpoſe: if a bill be brought into the houſe of Commons that touches any man's property in Ireland, it muſt lie 30 days, that the party may have notice, and not ſuffer unheard. Why then ſhould not a reaſonable time be allowed to the ſubjects in America, in proportion to their more diſtant ſituation; ſeeing they are no leſs the ſubjects of the crown, than the inhabitants of Ireland; and liberty is at leaſt as valuable as property; and ſurely the concern of whole provinces challenges as much regard as the intereſt of a ſingle perſon. If it ſhould be ſaid, as I confeſs a great miniſter once ſaid to me, That *the regulation of charters muſt be looked on as part of the public œconomy, and not the affair of any particular perſon or province*; I humbly apprehend, with the utmoſt deference to that great perſon, that this does not reach the preſent caſe. It is indeed very reaſonable, that all publick affairs be ſubject to the determination of the publick wiſdom, and there is no occaſion to notify any body, becauſe every body is ſuppoſed to be preſent in the repreſentative body of the whole; but here the provinces to be cenſured and deprived, have no repreſentative in parliament, and conſequently muſt be conſidered as abſent perſons, ſuffering unheard.

I know of but one thing more that can be ſaid to palliate a proceeding againſt the charters in this way, which is, *That the provinces always have their reſpective agents at court, who may be heard by petition before the bill*

bill paſſes into an act. To which I anſwer, firſt, that ſometimes they have agents here, and at other times they have not. Next, that a bill may paſs into an act without the knowledge of the agents, they having no citation. This had once like to have been the caſe, when a bill of this nature was formerly brought into the houſe of Commons, and certainly had proved ſo, if the agent for New-England had at that nice juncture been indiſpoſed in his health, or but a day's journey out of town, or if he had not been more than ordinary active and diligent when he was in town. And laſtly, I muſt obſerve that agents are only inſtructed in things that fall within the ordinary courſe of buſineſs, and when any thing of a new and extraordinary nature is brought on the carpet, they have a general inſtruction to pray for time, in order to notify their principals, and receive their ſpecial commands. Beſides, it is well known, that the right hon. the Lords Commiſſioners for Trade and Plantations were, at the time before mentioned, prepared to urge many complaints both new and old; to which facts it had been impoſſible for any agent to anſwer *ore tenus*, without being ever apprized of them. To conclude, what *theſe governments* deſire of their ſuperiors at home is, that they may not be judged and condemned unheard. And I cannot but flatter myſelf they will obtain it, whether I conſider the reaſonableneſs of the demand itſelf, or the celebrated juſtice and lenity of his Majeſty's government, or the importance of the thing in queſtion to the

provinces

provinces concerned. I mention this laſt particular, being ſure they would reckon the loſs of their privileges a greater calamity than if their houſes were all in flames at once. Nor can they be juſtly blamed, the one being a reparable evil, but the other irreparable. Burnt houſes may riſe again out of their aſhes, and even more beautiful than before, but 'tis to be feared that liberty *once loſt, is loſt for ever.*

Thus I have ventured into the world my thoughts on the New-England charters; happy! if my imperfect eſſay may provoke ſome learned pen to do full juſtice to the ſubject, which yet in the great ſcarcity of friends that theſe governments have, ſeems too much to be expected. In the mean time, being myſelf a native of one of them, I could not forbear ſhewing my good-will; for how little ſoever one is able to write, yet when the liberties of one's country are threatened, it is ſtill more difficult to be ſilent. The dumb ſon of Crœſus, when he ſaw an attempt made on his father's life, broke into ſudden ſpeech, by a ſtrong effort of nature. It's a fine paſſage in Salluſt, which I've placed in the title page of this little work. *Pulchrum eſt patriæ benefacere, etiam benedicere haud abſurdum eſt.* Every man ſhould be ambitious to do his country each of theſe ſervices, and if I have not been fortunate enough to attain to *either* of them, THIS ſhall be my ſatisfaction, that I have always aimed and endeavoured at *Both.*

F I N I S.

THE

RIGHTS

OF THE

Britiſh Colonies

Aſſerted and proved.

By JAMES OTIS, *Eſq*;

The THIRD EDITION, corrected.

Hæc omnis regio & celſi plaga pinea montis
Cedat amicitiæ Teucrorum: & fœderis æquas
Dicamus leges, ſocióſque in regna vocemus
Conſidant, ſi tantus amor, & mœnia condant.

VIRG.

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INTRODUCTION.

Of the Origin of Government.

THE origin of *government* has in all ages no leſs perplexed the heads of lawyers and politicians, than the origin of *evil* has embarraſſed divines and philoſophers: and 'tis probable the world may receive a ſatisfactory ſolution on *both* thoſe points of enquiry at the *ſame* time.

The various opinions on the origin of *government* have been reduced to four. 1. That dominion is founded in *Grace*. 2. On *force* or meer *power*. 3. On *compact*. 4. On *property*.

The firſt of theſe opinions is ſo abſurd, and the world has paid ſo very dear for embracing it, eſpecially under the adminiſtration of the *Roman pontiffs*, that mankind ſeem at this day to be in a great meaſure cured of their madneſs in this particular; and the notion is pretty generally exploded, and hiſſed off the ſtage.

To thoſe who lay the foundation of government in *force* and meer *brutal power*, it is objected; that, their ſyſtem deſtroys all diſtinction between right and wrong; that it overturns all morality, and leaves it to every man

to do what is right in his own eyes; that it leads directly to *ſcepticiſm*, and ends in *atheiſm*. When a man's will and pleaſure is his only rule and guide, what ſafety can there be either for him or againſt him, but in the point of a ſword?

On the other hand the gentlemen in favour of the *original compact* have been often told that *their* ſyſtem is chimerical and unſupported by reaſon or experience. Queſtions like the following have been frequently aſked them, and may be again.

" When and where was the original compact for introducing government into any ſociety, or for creating a ſociety, made? Who were preſent and parties to ſuch compact? Who acted for infants and women, or who appointed guardians for them; Had theſe guardians power to bind both infants and women during life, and their poſterity after them? Is it in nature or reaſon that a guardian ſhould by his own act perpetuate his power over his ward, and bind him and his poſterity in chains? Is not every man born as free by nature as his father? Has he not the ſame natural right to think and act and contract for himſelf? Is it poſſible for a man to have a natural right to make a ſlave of himſelf or of his poſterity? Can a father ſuperſede the laws of nature? What man is or ever was born free, if every man is not? What will there be to diſtinguiſh the next generation of men from their forefathers, that they ſhould not have

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the ſame right to make original compacts as their anceſtors had? If every man has ſuch right, may there not be as many original compacts as there are men and women born or to be born? Are not women born as free as men? Would it not be infamous to aſſert that the ladies are all ſlaves by nature? If every man and woman born or to be born has, and will have, a right to be conſulted, and muſt accede to the original compact before they can with any kind of juſtice be ſaid to be bound by it, will not the compact be ever forming and never finiſhed, ever making but never done? Can it with propriety be called a compact original or derivative, that is ever in treaty but never concluded?"

When it has been ſaid that each man is bound as ſoon as he accedes, and that the conſent may be either expreſs or tacit, it has been aſked, "What is a *tacit* conſent or compact? Does it not appear plain that thoſe who refuſe their aſſent cannot be bound? If one is at liberty to accede or not, is he not at liberty to *recede* on the diſcovery of ſome intolerable fraud and abuſe that has been palmed upon him by the reſt of the high-contracting parties? Will not natural equity in ſeveral ſpecial caſes reſcind the original compacts of great men, as effectually as thoſe of little men are rendered null and void in the ordinary courſe of a court of chancery?"

There are other queſtions which have been ſtarted, and a reſolution, of them demanded, which

which may perhaps be deemed indecent by thoſe who hold the prerogatives of an earthly monarch, and even the power of a plantation government, ſo ſacred as to think it little leſs than plaſphemy to enquire into their origin and foundation: while the government of the ſupreme *ruler* of the univerſe is every day diſcuſſed with leſs ceremony and decency than the adminiſtration of a petty German prince. I hope the reader will conſider that I am at preſent only mentioning ſuch queſtions as have been put by high-flyers and others in church and ſtate, who would exclude all compact between a ſovereign and his people, without offering my own ſentiments upon them; this however I preſume I may be allowed hereafter to do without offence. Thoſe who want a full anſwer to them may conſult Mr. Locke's diſcourſes on government, M. De Vattel's law of nature and nations, and their own conſciences.

" What ſtate were Great Britain, Ireland, and the Plantations left in by the abdication of James II? Was it a ſtate of nature or of civil government? If a ſtate of civil government, where were the ſupreme legiſlative and executive powers from the abdication to the election of *William* and *Mary*? Could the Lords and Commons be called a compleat parliament or ſupreme power without a King to head them? Did any law of the land or any original compact previous to the abdication provide, that on ſuch an event, the ſupreme

power

power ſhould devolve on the two houſes? Were not both houſes ſo manifeſtly puzzled with the novelty and ſtrangeneſs of the event, and ſo far from finding any act of parliament, book-caſe, or precedent to help them, that they diſputed in ſolemn Conference by what name to call the action, and at laſt gave it one, as new in our language and in that of parliament as the thing itſelf was in fact*?"

If on this memorable and very happy event the three kingdoms and the dominions fell back into a ſtate of *nature*, it will be aſked, "Whether every man and woman were not then equal? If ſo, had not every one of them a natural and equitable right to be conſulted in the choice of a new king, or in the formation of a new original compact or government, if any new form had been made? Might not the nation at that time have rightfully changed the monarchy into a republic or any form, that might ſeem beſt? Could any change from a ſtate of nature take place without univerſal conſent, or at leaſt without the conſent of the *majority* of the individuals? Upon the principles of the original compact as commonly ex-

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* On King James's leaving the kingdom and *abdicating* the government, the lords would have the word *deſertion* made uſe of, but the commons thought it was not comprehenſive enough, for that the King might then have liberty of returning. The Scots rightly called it a forfeiture of the crown, and this in plain Engliſh is the ſenſe of the term *abdication* as by the convention and every Parliament ſince applied. See the hiſtory and debates of the convention, and the acts then made.

explained and underſtood, could a few hundred men, who before the diſſolution of the government had been called, and in fact were, lords, knights, and gentlemen, have lawfully made that glorious deliverer and defender *W.* III. rightful king?" Such an one he certainly was, and ſuch have been all his illuſtrious ſucceſſors to the preſent happy times; when we have the joy to ſee the ſceptre ſwayed in juſtice, wiſdom and mercy, by our lawful Sovereign George the Third; a prince who glories in being a Briton born, and whom may God long preſerve and proſper.

"If upon the abdication all were reduced to a ſtate of nature, had not apple-women and orange-girls as good a right to give their reſpective ſuffrages for a new king as the philoſopher, courtier, petit maitre, and politician? Were theſe and ten millons of others ſuch ever more conſulted on that occaſion, than the multitude now are in the adjuſtment of that real modern farce, an election of a king of the Romans; which ſerves as a contraſt to the grandeur of the ancient republics, and ſhews the littleneſs of the modern German and ſome other Gothic conſtitutions in their preſent degenerate ſtate?

"In the election of *W.* III. were the votes of Ireland and the Plantations ever called for or once thought of till the affair was ſettled? Did the lords and commons who happened to be then in and about Weſtminſter repreſent, and act, for the individuals, not only of the three

three kingdoms, but for all the *free-born and as yet unconquered poſſeſſors and proprietors of their own money-purchaſed, blood-purchaſed plantations, which, till lately, have been defended with little or no aſſiſtance from Great-Britain?* Were not thoſe who did not vote in or for the new model at liberty, upon the principles of the compact, to remain in what ſome call the delectable ſtate of nature, to which by the hypotheſis they were reduced, or to join themſelves to any other ſtate, whoſe ſolemn league and covenant they could ſubſcribe? Is it not a firſt principle of the original compact, that all who are bound ſhould bind *themſelves?* Will not common ſenſe without much learning or ſtudy dictate obvious anſwers to all the above queſtions?---and, ſay the oppoſers of the original compact and of the natural equality and liberty of mankind, will not thoſe anſwers infallibly ſhew that the doctrine is a piece of *metaphyſical* jargon and *ſyſtematical* nonſenſe ?" Perhaps not.

With regard to the fourth opinion, that *dominion is founded in property*, what is it but playing with words? Dominion in one ſenſe of the term is ſynonimous with property, ſo one cannot be called the foundation of the other, but as one *name* may appear to be the foundation or cauſe of another.

Property cannot be the foundation of dominion as ſynonimous with government; for on the ſuppoſition that property has a precari-

ous exiſtence antecedent to government, and though it is alſo admitted that the ſecurity of property is one end of government, but that of little eſtimation even in the view of a *miſer* when life and liberty of locomotion and further accumulation are placed in competition, it muſt be a very abſurd way of ſpeaking to aſſert that *one* end of government is the foundation of government. If the ends of government are to be conſidered as its foundation, it cannot with truth or propriety be ſaid that government is founded on any *one* of thoſe ends ; and therefore government is not founded on property or its ſecurity *alone*, but at leaſt on ſomething elſe in conjunction. It is however true in fact and *experience*, as the great, the incomparable *Harrington* has moſt abundantly demonſtrated in his *Oceana*, and other divine writings, that Empire follows the balance of *property:* it is alſo certain that *property* in fact generally *confers* power, though the poſſeſſor of it may not have much more wit than a mole or a muſquaſh : and this is too often the cauſe, that riches are ſought after, without the leaſt concern about the right application of them. But is the fault in the riches, or the general law of nature, or the unworthy poſſeſſor ? It will never follow from all this, that government is *rightfully* founded on *property*, alone. What ſhall we ſay then? Is not government founded on *grace ?* No. Nor on *force ?* No. Nor on *compact ?* Nor *property ?* Not altogether on either.

Has

Has it *any* ſolid foundation ? any chief corner ſtone, but what accident, chance or confuſion may lay one moment and deſtroy the next ? I think it has an everlaſting foundation in the *unchangeable will of* GOD, the author of nature, whoſe laws never vary. The ſame omniſcient, omnipotent, infinitely good and gracious Creator of the univerſe, who has been pleaſed to make it neceſſary that what we call matter ſhould *gravitate*, for the celeſtial bodies to roll round their axis, dance their orbits, and perform their various revolutions in that beautiful order and concert, which we all admire, has made it *equally* neceſſary that from *Adam* and *Eve* to theſe degenerate days, the different ſexes ſhould ſweetly *attract* each other, from ſocieties of *ſingle* families, of which *larger* bodies and communities are as naturally, mechanically, and neceſſarily combined, as the dew of Heaven and the ſoft diſtilling rain is collected by the all-enlivening heat of the ſun. *Government* is therefore moſt evidently founded *on the neceſſities of our nature*. It is by no means an *arbitrary* thing, depending merely on *compact* or *human will* for its exiſtence.

We come into the world forlorn and helpleſs ; and if left alone and to ourſelves at any one period of our lives, we ſhould ſoon die in want, deſpair or diſtraction. So kind is that hand, tho' little known or regarded, which feeds the rich and the poor, the blind and the naked ; and provides for the ſafety of infants

by the principle of parental love, and for that of men by Government! We have a King, who neither ſlumbers nor ſleeps, but eternally watches for our good; whoſe rain falls on the juſt and on the unjuſt: yet while they live, move, and have their being in him, and cannot account for either, or for any thing elſe, ſo ſtupid and wicked are ſome men, as to deny his exiſtence, blaſpheme his moſt evident government, and diſgrace their nature.

Let no Man think I am about to commence advocate for *deſpotiſm*, becauſe I affirm that government is founded on the neceſſity of our natures; and that an original ſupreme Sovereign, abſolute, and uncontroulable, *earthly* power *muſt* exiſt in and preſide over every ſociety; from whoſe final deciſions there can be no appeal but directly to Heaven It is therefore *originally* and *ultimately* in the people. I ſay this ſupreme abſolute power is *originally* and *ultimately* in the people; and they never did in fact *freely*, nor can they *rightfully* make an abſolute, unlimited renunciation of this divine right*. It is ever in the nature of the thing given in *truſt*, and on a condition, the performance of which no mortal can diſpence with; namely, that the perſon or perſons on whom

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* The power of God Almighty is the only power that can properly and ſtrictly be called ſupreme and abſolute. In the order of nature immediately under him, comes the power of a ſimple *democracy*, or the power of the whole over the whole. Subſequent to both theſe are all other political powers, from that of the French Monarque, to a pretty conſtable.

whom the ſovereignty is conferred by the people, ſhall *inceſſantly* conſult *their* good. Tyranny of all kinds is to be abhorred, whether it be in the hands of one, or of the few, or of the many.---And though "in the laſt age a generation of men ſprung up that would flatter Princes with an opinion that *they* have a *divine right* to abſolute power;" yet "ſlavery is ſo vile and miſerable an eſtate of man, and ſo directly oppoſite to the generous temper and courage of our nation, that it is hard to be conceived that an *Engliſhman*, much leſs a *gentleman*, ſhould plead for it*:" Eſpecially at a time when the fineſt writers of the moſt polite nations on the continent of *Europe*, are enraptured with the beauties of the civil conſtitution of *Great Britain*; and envy her, no leſs for the *freedom* of her ſons, than for her immenſe *wealth* and *military* glory.

But let the *origin* of government be placed where it may, the *end* of it is manifeſtly the good of *the whole*. *Salus populi ſuprema lex eſto*, is of the law of nature, and part of that grand charter given the human race (though too many of them are afraid to aſſert it) by the only monarch in the univerſe, who has a clear and indiſputable right to *abſolute* power; becauſe he is the *only* ONE who is *omniſcient* as well as *omnipotent*.

It is evidently contrary to the firſt principles of reaſon, that ſupreme *unlimited* power ſhould be in the hands of *one* man. It is the greateſt "*idolatry*

* Mr. Locke.

" *idolatry*, begotten by *flattery*, on the body of *pride*," that could induce one to think that a *ſingle mortal* ſhould be able to hold ſo great a power, if ever ſo well inclined. Hence the origin of *deifying* princes: it was from the trick of gulling the vulgar into a belief that their tyrants were *omniſcient*; and that it was therefore right, that they ſhould be conſidered as *omnipotent*. Hence the *Dii majorum & minorum gentium*; the great, the monarchical, the little, Provincial ſubordinate and ſubaltern gods, demi-gods, and ſemidemi-gods, ancient and modern. Thus deities of all kinds were multiplied and increaſed in *abundance*; for every devil incarnate, who could enſlave a people, acquired a title to *divinity*; and thus the " rabble of the ſkies" was made up of locuſts and caterpillars; lions, tygers, and harpies; and other devourers tranſlated from plaguing the earth*!

The *end* of government being the *good* of mankind, points out its great duties: it is above all things to provide for the ſecurity, the quiet, and happy enjoyment of life, liberty, and property. There is no one act which a government can have a *right* to make, that does not tend to the advancement of the ſecurity, tranquility and proſperity of the people. If life, liberty and property could be enjoyed in

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* Kingcraft and Prieſtcraft have fell out ſo often, that it is a wonder this grand and ancient alliance is not broken off for ever. Happy for mankind will it be, when ſuch a ſeparation ſhall take place.

in as great perfection in *ſolitude*, as in *ſociety*, there would be no need of government. But the experience of ages has proved that ſuch is the nature of man, a weak, imperfect being; that the valuable ends of life cannot be obtained, without the union and aſſiſtance of many. Hence it is clear that men cannot live apart or independent of each other: in ſolitude men would periſh; and yet they cannot live together without conteſts. Theſe conteſts require ſome arbitrator to determine them. The neceſſity of a common, indifferent and impartial judge, makes all men ſeek one; though few find him in the *ſovereign power*, of their reſpective ſtates, or any where elſe in *ſubordination* to it.

Government is founded *immediately* on the neceſſities of human nature, and *ultimately* on the will of God, the author of nature; who has not left it to men in general to chuſe, whether they will be members of ſociety or not, but at the hazard of their ſenſes if not of their lives. Yet it is left to every man as he comes of age to chuſe *what ſociety* he will continue to belong to. Nay, if one has a mind to turn *hermit*, and after he has been born, nurſed, and brought up in the arms of ſociety, and acquired the habits and paſſions of ſocial life, is willing to run the riſque of ſtarving alone, which is generally moſt unavoidable in a ſtate of hermitage, who ſhall hinder him? I know of no human law, founded on the law of *nature*, to reſtrain him

from

from ſeparating himſelf from all the ſpecies, if he can find it in his heart to leave them; unleſs it ſhould be ſaid, it is againſt the great law of *ſelf-preſervation*: But of this every man will think himſelf *his own judge*.

The few *hermits* and *Miſanthropes* that ever exiſted, ſhew that thoſe ſtates are unnatural. If we were to take out from them thoſe who have made great *worldly* gain of their *godly* hermitage, and thoſe who have been under the madneſs of *enthuſiaſm*, or *diſappointed* hopes in their *ambitious* projects, for the detriment of mankind, perhaps there might not be left ten from *Adam* to this day.

The form of government is by *nature* and by *right* ſo far left to the *individuals* of each ſociety, that they may alter it from a ſimple democracy, or government of all over all, to any other form they pleaſe. Such alteration may and ought to be made by expreſs compact: But how ſeldom this right has been aſſerted, hiſtory will abundantly ſhew. For once that it has been fairly ſettled by compact; *fraud*, *force* or *accident* have determined it an hundred times. As the people have gained upon tyrants, theſe have been obliged to relax, *only* till a fairer opportunity has put it in their power to encroach again.

But if every prince ſince *Nimrod* had been a tyrant, it would not prove a *right* to tyranize. There can be no preſcription old enough to ſuperſede the law of nature, and the grant of God Almighty; who has given

to

to all men a natural right to be *free*, and they have it ordinarily in their power to make themſelves ſo, if they pleaſe.

Government having been proved to be neceſſary by the law of nature, it makes no difference in the thing to call it from a certain period, *civil*. This term can only relate to form, to additions to, or deviations from, the ſubſtance of government: This being founded in nature, the ſuperſtructures and the whole adminiſtration ſhould be conformed to the law of univerſal reaſon. A ſupreme legiſlative and a ſupreme executive power, muſt be placed *ſomewhere* in every commonwealth: Where there is no other poſitive proviſion or compact to the contrary, thoſe powers remain in the *whole body of the people*. It is alſo evident there can be but *one* beſt way of depoſiting thoſe powers; but what that way is, mankind have been diſputing in peace and in war more than five thouſand years. If we could ſuppoſe the individuals of a community met to deliberate, whether it were beſt to keep thoſe powers in *their own* hands, or diſpoſe of them in *truſt*, the following queſtions would occur——Whether thoſe two great powers of *Legiſlation* and *Execution* ſhould remain united? If ſo, whether in the hands of the many, or jointly or ſeverally in the hands of a few, or jointly in ſome one individual? If both thoſe powers are retained in the hands of the many, where nature ſeems to have

placed them originally, the government is a ſimple *democracy*, or a government of all over all. This can be adminiſtred, only by eſtabliſhing it as a firſt principle, that the votes of the majority ſhall be taken as the voice of the whole. If thoſe powers are lodged in the hands of a few, the government is *Ariſtocracy* or *Oligarchy** Here too the firſt principles of a practicable adminiſtration is, that the majority rules the whole. If thoſe great powers are both lodged in the hands of one man, the government is a *ſimple Monarchy*, commonly, though falſly called *abſolute*, if by that term is meant a right to do as one pleaſes.----*Sic volo, ſic jubeo, ſtet pro ratione voluntas*, belongs not of right to any mortal man.

The ſame law of nature and of reaſon is equally obligatory on a *democracy*, an *ariſtocracy*, and a *monarchy*: Whenever the adminiſtrators, in any of thoſe forms, deviate from truth, juſtice and equity, they verge towards tyranny, and are to be oppoſed; and if they prove incorrigible, they will be depoſed by the people, if the people are not rendered too abject. Depoſing the adminiſtrators of a *ſimple democracy* may ſound oddly, but it is done every day, and in almoſt every vote. A, B, and C, for example, make a *democracy*; to day A and B are for ſo vile a meaſure as a ſtand-

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* For the ſake of the unlettered reader it is noted, that Monarchy means the power of one great man; Ariſtocracy and Oligarchy that of a few; and Democracy that of all men.

ſtanding army; to morrow B and C vote it out. This is as really depoſing the former adminiſtrators, as ſetting up and making a new king is depoſing the old one. *Democracy* in the one caſe, and *monarchy* in the other, ſtill remain; all that is done is to change the adminiſtration.

The firſt principle and great end of government being to provide for the beſt good of all the people, this can be done only by a ſupreme legiſlative and executive ultimately in the people, or whole community, where God has placed it; but the inconveniencies, not to ſay impoſſibility, attending the conſultations and operations of a large body of people, have made it neceſſary to transfer the power of the whole to a *few*: This neceſſity gave riſe to deputation, proxy, or a right of repreſentation.

A Power of legiſlation, without a power of execution in the ſame or other hands, would be futile and vain: On the other hand, a power of execution, ſupreme or ſubordinate, without an *independent* legiſlature, would be perfect deſpotiſm.

The difficulties attending an univerſal congreſs, eſpecially when ſociety became large, have brought men to conſent to a delegation of the power of all: The weak and the wicked have too often been found in the ſame intereſt; and in moſt nations have not only brought theſe powers *jointly* into the hands of one, or ſome few, of their number; but

made them *hereditary*, in the families of deſpotic nobles and princes.

The wiſer and more virtuous ſtates, have always provided that the repreſentation of the people ſhould be *numerous*. Nothing but life and liberty are *naturally* hereditable: This has never been conſidered by thoſe, who have *tamely* given up both into the hands of a tyrannical Oligarchy or deſpotic Monarchy.

The analogy between the natural, or material, as it is called, and the moral world, is very obvious; God himſelf appears to us at ſome times to cauſe the intervention or combination of a *number* of ſimple principles, though never when *one* will anſwer the end; gravitation and attraction have place in the revolution of the planets, becauſe the one would fix them to a centre, and the other would carry them off indefinitely; ſo in the moral world, the firſt ſimple principle is *equality* and the power of the whole. This will anſwer in ſmall numbers; ſo will a tolerably virtuous *Oligarchy* or a *Monarchy*. But when the ſociety grows in bulk, none of them will anſwer well *ſingly*, and none worſe than abſolute monarchy. It becomes neceſſary therefore as numbers increaſe, to have thoſe ſeveral powers properly combined; ſo as form the whole to produce that harmony of government ſo often talked of and wiſhed for, but too ſeldom found in ancient or modern ſtates. The grand political problem in all ages has been to invent the beſt combination or diſtribution

bution of the ſupreme powers of legiſlation and execution. Thoſe ſtates have ever made the greateſt figure, and have been moſt durable, in which thoſe powers have not only been ſeparated from each other, but placed each in more hands than one, or a few. The *Romans* are the moſt ſhining example; but they never had a balance between the ſenate and the people; and the want of this, is generally agreed by the few who know any thing of the matter, to have been the cauſe of their fall. The *Britiſh* conſtitution in theory and in the preſent adminiſtration of it, in general comes neareſt the idea of perfection, of any that has been reduced to practice; and if the principles of it are adhered to, it will, according to the infallible prediction of *Harrington*, always keep the *Britons* uppermoſt in *Europe*, 'till their *only* rival nation ſhall either embrace that perfect model of a commonwealth given us by that author, or come as near it as *Great-Britain* is. Then indeed, and not till then, will that rival and our nation either be eternal confederates, or contend in greater earneſt than they have ever yet done, till one of them ſhall ſink under the power of the other, and riſe no more.

Great Britain has at preſent, moſt evidently the advantage, and ſuch opportunities of honeſt wealth and grandeur, as perhaps no ſtate ever had before, at leaſt not ſince the days of *Julius Cæſar*, the deſtroyer of the Roman glory and grandeur, at a time when

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but for him and his adherents both might have been rendered immortal.

We have ſaid that the form and mode of government is to be ſettled by *compact*, as it was rightfully done by the convention after the abdication of *James* II. and aſſented to by the firſt repreſentative of the nation choſen afterwards, and by every parliament, and by almoſt every man ever ſince, but the bigots to the indefeaſible power of tyrants civil and eccleſiaſtic. There was neither time for, nor occaſion to call the whole people together: if they had not liked the proceedings it was in their power to controul them; as it would be ſhould the ſupreme legiſlative or executive powers ever again attempt to enſlave them. The people will bear a great deal, before they will even murmur againſt their rulers: but when once they are thoroughly roufed, and in earneſt, againſt thoſe who would be glad to enſlave them, their power is *irreſiſtible**.

At the abdication of King *James*, every ſtep was taken that natural juſtice and equity could require; and all was done that was poſſible, at leaſt in the wretched ſtate in which he left the nation. Thoſe very noble and worthy patriots, the lords ſpiritual and temporal of that day, and the principal perſons of the commons, adviſed the prince, who in conſequence thereof cauſed letters to be "written to the lords ſpiritual and temporal, being proteſtants, and other letters to the ſeveral coun-

* See Mr. Locke on the Diſſolution of Government.

counties, cities, univerſities, boroughs and cinque-ports, for the chuſing ſuch perſons to repreſent them as were of right to be ſent to parliament, to meet at Weſtminſter upon the 22d of January 1688, in order to ſuch an eſtabliſhment, as that their religion, laws and liberties might not again be in danger of being ſubverted." See *W. & M.* ſeſſ. 1 C. 1.

Upon this, elections were made, and thereupon the ſaid lords ſpiritual and temporal and commons met, and proceeded to aſſert their rights and liberties, and to the election of the Prince and Princeſs of Orange to be King and Queen of England, France and Ireland, and the dominions thereto belonging. The kingdom of Scotland agreed in the ſame choice: Theſe proceedings were drawn into the form of acts of parliament, and are the baſis of the acts of union and ſucceſſion ſince made, and which altogether are the ſure foundation of that indiſputable right which his preſent Majeſty has to the Crown of *Great Britain* and the dominions thereto belonging; which right it is the greateſt folly to doubt of, as well as the blackeſt treaſon to deny. The preſent eſtabliſhment founded on the law of God, and of nature, was began by the convention, with a profeſſed and real view, in all parts of the *Britiſh* empire, to put the liberties of the people out of the reach of arbitrary power in all times to come.

But the grandeur, as well as juſtice, equity and goodneſs of the proceedings of the nation

on

on that memorable occaſion, never have been nor can be ſo well repreſented as in the words of thoſe great men who compoſed the convention? for which reaſon partly, but principally becauſe they ſhew the rights of all Britiſh ſubjects, both at home and abroad, and ſhould therefore be in as many hands as poſſible, I have tranſcribed the following clauſes.

1 *W. & M.* ſeſſ. 1. chap. 1. preamble and ſec. 1. entitled---

" An act for removing and preventing all queſtions and diſputes concerning the aſſembling and ſitting of this preſent parliament.

For preventing all doubts and ſcruples which may in any wiſe ariſe concerning the meeting, ſitting and proceeding of this preſent parliament; be it declared and enacted by the King's and Queen's moſt excellent Majeſties, by and with the advice and conſent of the lords ſpiritual and temporal, and commons, now aſſembled, and by authority of the ſame.

IIdly. That the lords ſpiritual and temporal, and commons, convened at Weſtminſter, the two and twentieth day of January A. D. 1688, and there ſitting the 13th of February following, are the two houſes of parliament, and ſo ſhall be and are hereby declared, enacted and adjudged to be, to all intents, conſtruſtions, and purpoſes whatſoever, notwithſtanding any want of writ or writs of ſummons, or any other defect of form or default whatſoever, as if they had been ſummoned according to the uſual form.

1 of

1 of *W.* & *M.* ſeſſ. 2. chap. 2. ſec. 3, 4, 5, 6, 11, 12.

An act declaring the rights and liberties of the ſubject, and ſettling the ſucceſſion of the Crown.

Whereas the lords ſpiritual and temporal, and commons, aſſembled at Weſtminſter, lawfully, fully and freely repreſenting all the eſtates of the people of this realm, did upon the 13th of February A. D. 1688, preſent unto their Majeſties, then called and known by the names and ſtile of *William* and *Mary*, Prince and Princeſs of Orange, being preſent in their proper perſons, a certain declaration in writing, made by the ſaid lords and commons in the words following, *viz.*

Whereas the late King James the ſecond, by the aſſiſtance of divers evil counſellors, judges, and miniſters employed by him, did endeavour to ſubvert and extirpiate the proteſtant religion, and the laws and liberties of this kingdom.

1. By aſſuming and exerciſing a power of diſpenſing with and ſuſpending of laws, and the execution of laws, without conſent of parliament.

2. By committing and proſecuting divers worthy prelates, for humbly petitioning to be excuſed from concurring to the ſaid aſſumed power.

3. By iſſuing and cauſing to be executed a commiſſion under the great ſeal for erecting a

court, called, The court of commiſſioners for eccleſiaſtical cauſes.

4. For levying money for and to the uſe of the crown, by pretence of prerogative, for other time, and in other manner, than the ſame was granted by parliament.

5. By raiſing and keeping a ſtanding army within this kingdom in time of peace, without conſent of parliament, and quartering ſoldiers contrary to law.

6. By cauſing ſeveral good ſubjects, being proteſtants, to be diſarmed, at the ſame time when papiſts were both armed and employed, contrary to law.

7. By violating the freedom of election of members to ſerve in parliament.

8. By proſecutions in the court of King's Bench, for matters and cauſes cognizable only in parliament; and by divers other arbitrary and illegal courſes.

9, And whereas of late years, partial, corrupt and unqualified perſons, have been returned and ſerved on juries in trials, and particularly divers jurors in trials, for high treaſon, which were not freeholders.

10. And exceſſive bail hath been required of perſons committed in criminal caſes, to elude the benefit of the laws made for the liberty of the ſubjects.

11. And exceſſive fines have been impoſed; and illegal and cruel puniſhments inflicted.

12. And ſeveral grants and promiſes made of fines and forfeitures, before any conviction

or

or judgment againſt the perſons, upon whom the ſame were to be levied.

All which are uttterly and directly contrary to the known laws and ſtatutes, and freedom of this realm——

And whereas the ſaid late King James the ſecond having abdicated the Government, and the throne being thereby vacant, his highneſs the prince of Orange (whom it hath pleaſed Almighty God to make the glorious inſtrument of delivering this kingdom from popery and arbitrary power) did (by the advice of the Lords ſpiritual and temporal, and divers principal perſons of the commons)cauſe letters to be written to the lords ſpiritual and temporal, being proteſtants, and other letters to the ſeveral counties, cities, univerſities, boroughs, and cinque-ports, for the chuſing of ſuch perſons to repreſent them, as were of right to be ſent to parliament, to meet and ſit at Weſtminſter upon the two and twentieth of January in this year 1688, in order to ſuch an eſtabliſhment, as that their religion, laws, and liberties might not again be in danger of being ſubverted. Upon which letters, elections having been accordingly made:

And thereupon the ſaid lords ſpiritual and temporal and commons, purſuant to their reſpective letters and elections, being now aſſembled in a full and free repeſentative of this nation, taking into their moſt ſerious conſideration the beſt means for attaining the ends aforeſaid; do in the firſt place (as their anceſ-

tors in like caſe have uſually done) for the vindicating and aſſerting their antient rights and liberties, declare,

1. That the pretended power of ſuſpending of laws, or the execution of laws, by regal authority, without conſent of parliament, is illegal.

2. That the pretended power of diſpenſing with laws, or the execution of laws, by regal authority, as it hath been aſſumed and exerciſed of late, is illegal.

3. That the commiſſion for creating the late court of commiſſioners for eccleſiaſtical cauſes, and all other commiſſions and courts of like nature, are illegal and pernicious.

4. That levying money for or to the uſe of the crown, by pretence of prerogative, without grant of parliament, for longer time, or in other manner, than the ſame is or ſhall be granted, is illegal.

5. That it is the right of the ſubjects to petition the King; and all commitments and proſecutions for ſuch petitioning are illegal.

6. That the raiſing or keeping a ſtanding army within the kingdom in time of peace, unleſs it be with conſent of parliament, is againſt law.

7. That the ſubjects which are proteſtants, may have arms for their defence, ſuitable to their conditions, and as allowed by law.

8. That election of members of parliament ought to be free.

9. That the freedom of ſpeech, and debates, or proceedings in parliament, ought not to be impeached or queſtioned in any court or place out of parliament.

10. That exceſſive bail ought not to be required, nor exceſſive fines impoſed; nor cruel and unuſual puniſhments inflicted.

11. That jurors ought to be duly impannelled and returned; and jurors which paſs upon mens trials for high treaſon, ought to be freeholders.

12. That all grants and promiſes of fines and forfeitures of particular perſons before conviction, are illegal and void.

13. And that for redreſs of all grievances, and for the amending, ſtrengthening, and preſerving of the laws, parliaments ought to be held frequently.

And they do claim, demand, and inſiſt upon all and ſingular the premiſes, as their undoubted rights and liberties; and that no declarations, judgments, doings, or proceedings, to the prejudice of the people in any of the ſaid premiſes, ought in any wiſe to be drawn hereafter into conſequence or example:

To which demand of their rights they are particularly encouraged by the declaration of his Highneſs the Prince of Orange, as being the only means for obtaining a full redreſs and remedy therein———

Having therefore an entire confidence, that his ſaid Highneſs the Prince of Orange, will perfect the deliverance ſo far advanced by him,

and

and will ſtill preſerve them from the violation of their rights, which they have here aſſerted, and from all other attempts upon their religion, rights and liberties.

II. The ſaid Lords ſpiritual and temporal, and commons aſſembled at Weſtminſter, do reſolve that *William* and *Mary* Prince and Princeſs of Orange be, and be declared, King and Queen of England, France and Ireland, and the dominions thereunto belonging, to hold the crown and royal dignity of the ſaid kingdoms and dominions to them the ſaid Prince and Princeſs, during their lives, and the life of the ſurvivor of them; and that the ſole and full exerciſe of the regal power be only in, and executed by the ſaid Prince of Orange, in the names of the ſaid Prince and Princeſs, during their joint lives; and after their deceaſes, the ſaid crown and royal dignity of the ſaid kingdoms and dominions to be to the heirs of the body of the ſaid Princeſs; and for default of ſuch iſſue, to the Princeſs Anne of Denmark, and the heirs of her body; and for default of ſuch iſſue, to the heirs of the body of the ſaid Prince of Orange. And the Lords ſpiritual and temporal, and commons, do pray the ſaid Prince and Princeſs to accept the ſame accordingly.

IV. Upon which their ſaid Majeſties did accept the crown and royal dignity of the kingdom of England, France and Ireland, and the dominions thereunto belonging, according to the reſolutions and deſire of the ſaid

lords

lords and commons, contained in the ſaid declaration.

V. And thereupon their Majeſties were pleaſed, that the ſaid lords ſpiritual and temporal, and commons, being the two houſes of Parliament, ſhould continue to ſit, and with their Majeſties royal concurrence, make effectual proviſion for the ſettlement of the religion, laws and liberties of this Kingdom; ſo that the ſame for the future might not be in danger again of being ſubverted; to which the ſaid lords ſpiritual and temporal, and commons did agree and proceed to act accordingly.

VI. Now in purſuance of the premiſes, the ſaid lords ſpiritual and temporal and commons, in parliament aſſembled, for the ratifying, confirming and eſtabliſhing the ſaid declaration, and the articles, clauſes, matters and things therein contained, by the force of a law made in due form by authority of parliament, do pray that it may be declared and enacted, That all and ſingular the rights and liberties aſſerted and claimed in the ſaid declaration, are the true, ancient and indubitable rights and liberties of the People of this kingdom, and ſo ſhall be eſteemed, allowed, adjudged, deemed, and taken to be; and that all and every the particulars aforeſaid, ſhall be firmly and ſtrictly holden and obſerved, as they are expreſſed in the ſaid declaration; and all officers and miniſters whatſoever ſhall ſerve their Majeſties and their

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ſucceſſors according to the ſame in all times to come.

XI. All which their Majeſties are contented and pleaſed ſhall be declared, enacted, and eſtabliſhed by authority of this preſent parliament, and ſhall ſtand, remain, and be the law of this realm for ever; and the ſame are by their ſaid Majeſties, by and with the advice and conſent of the lords ſpiritual and temporal, and commons, in parliament aſſembled, and by the authority of the ſame, declared, enacted, and eſtabliſhed accordingly.

XII. And be it further declared and enacted by the authority aforeſaid, that from and after this preſent ſeſſion of parliament, no diſpenſation by *non obſtante* of or to any ſtatute or any part thereof, ſhall be allowed; but that the ſame ſhall be held void and of no effect, except a diſpenſation be allowed in ſuch ſtatutes, and except in ſuch caſes as ſhall be ſpecially provided for by one or more bill or bills to be paſſed during this preſent ſeſſion of parliament.

12 & 13 of *William* III. chap. 2. ſec. 3 & 4.

" Whereas it is neceſſary that further proviſion be made for ſecuring our religion, laws and liberties, after the death of his Majeſty and the Princeſs Anne of Denmark, and in default of iſſue of the body of the ſaid Princeſs, and of his Majeſty reſpectively; it is enacted,

That after the ſaid limitation ſhall take effect, judges commiſſions be made *quam-*

diu

diu ſe bene geſſerint, and their ſalaries aſcertained and eſtabliſhed; but upon the addreſs of both houſes of parliament, it may be lawful to remove them;

That no pardon under the great ſeal of England be pleaded to an impeachment by the commons in parliament.

Whereas the laws of England are the birthright of the people thereof, and all the Kings and Queens, who ſhall aſcend the throne of this realm, ought to adminiſter the government of the ſame according to the ſaid laws, and all their officers and miniſters ought to ſerve them according to the ſame; all the laws and ſtatutes of this realm for ſecuring the eſtabliſhed religion, and the rights and liberties of the people, and all other laws and ſtatutes now in force, are by his majeſty, with the advice and conſent of the lords ſpiritual and temporal, and commons, ratified and confirmed."

I ſhall cloſe this introduction with a paſſage from Mr. Locke.

" Though, ſays he, in a conſtituted common-wealth, ſtanding upon its own baſis, and acting according to its own nature, that is, acting for the preſervation of the community, there can be but one ſupreme power which is the legiſlative, to which all the reſt are and muſt be ſubordinate; yet the legiſlative being only a fiduciary power, to act for certain ends, there remains ſtill, " *in the people, a ſupreme power to remove, or alter, the legiſlative when*

they find the legiſlative act contrary to the truſt repoſed in them." For all power given, with truſt for the attaining an end, being limited by that end, whenever that end is manifeſtly neglected, or oppoſed, the truſt muſt neceſſarily be forfeited, and the power devolve into the hands of thoſe who gave it, who may place it anew where they ſhall think beſt, for their ſafety and ſecurity. And thus the *community* perpetually retains a ſupreme power of ſaving themſelves from the attempts and deſigns of any body, even of their legiſlators whenever they ſhall be ſo fooliſh, or ſo wicked, as to lay and carry on deſigns againſt the liberties and properties of the ſubject. For no man, or ſociety of men, having a power to deliver up their preſervation, or conſequently the means of it, to the abſolute will and arbitrary dominion of another; whenever any one ſhall go about to bring them into ſuch a ſlaviſh condition, they will always have right to preſerve what they have not a power to part with; and to *rid* themſelves of *thoſe* who invade this fundamental, ſacred and unalterable law of ſelf-preſervation, for which they entered into the ſociety.

And thus the community may be ſaid in this reſpect to be always the ſupreme power, but not as conſidered under any form of government, becauſe this power of the people, can never take place, till the government be diſſolved." Locke on Government, B. II. C. 13.

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This he ſays may be done, "from without by conqueſt; from within, 1ſt. When the legiſlative is altered. Which is often by the prince, but ſometimes by the whole legiſlative. As by invading the *property* of the ſubject, and making themſelves arbitrary diſpoſers of the lives, liberties and fortunes of the people; reducing them to ſlavery under arbitrary power, they put themſelves under a ſtate of war with the people, who are thereupon abſolved from any further obedience, and are left to the common refuge which GOD hath provided for all men, againſt force and violence. Whenſoever therefore, the legiſlative ſhall tranſgreſs this fundamental rule of ſociety; and either by ambition, fear, folly or corruption, endeavour to gain themſelves, or put into the hands of any other an abſolute power over the lives, liberties and eſtates of the people, by this breach of truſt, they forfeit the power the *people* had put into their hands for quite contrary ends, and it devolves to the *people*, who has a right to *reſume* their original liberty, and by the eſtabliſhment of a *new* legiſlative (ſuch as they ſhall think fit) provide for their own ſafety and ſecurity, which is the end for which they are in ſociety." Idem, Chap. 9.

Of Colonies in general.

THIS ſubject has never been very clearly and fully handled by any modern

writer, that I have had the good fortune to meet with ; and to do it juſtice, would require much greater abilities than I pretend to, and more leiſure than I ever expect will fall to my ſhare. Even the *Engliſh* writers and lawyers, have either intirely waved any conſideration of the nature of *Colonies*, or very lightly touched upon it, for the people of England never diſcovered much concern for the proſperity of the *Colonies*, till the revolution ; and even now ſome of their great men and writers, by their diſcourſes of, and conduct towards them, conſider them all rather as a parcel of *little inſignificant conquered iſlands*, than as a very extenſive ſettlement on the continent. Even their law-books and very dictionaries of law, in editions ſo late as 1750, ſpeak of the *Britiſh* plantations abroad as conſiſting chiefly of iſlands ; and they are reckoned up in ſome of them in this order—*Jamaica*, *Barbadoes*, *Virginia*, *Maryland*, *New-England*, *New-York*, *Carolina*, *Bermudas*. At the head of all theſe *Iſlands* (for there is no diſtinction made) ſtands *Jamaica*, in truth a *conquered* iſland ; and as ſuch, this and all the other little Weſt-India iſlands deſerve to be treated, for the conduct of their inhabitants and proprietors with regard to the Northern Colonies: divers of theſe colonies are larger than all thoſe iſlands together ; and are well ſettled, not as the common people of *England* fooliſhly imagine, with a compound mongrel mixture of *Engliſh*, *Indian* and *Negro*, but with freeborn *Britiſh* white

white ſubjects, whoſe loyalty has never yet been ſuſpected.

There is a man now living, or but lately dead, who once was a ſecretary of ſtate; during whoſe *wonderful* conduct of national affairs, without knowing whether *Jamaica* lay in the Mediterranean, the Baltic, or in the Moon, letters were often received, directed to the Governor of the *iſland* of New-England. Which *iſland* of New-England is a part of the *continent* of North-America, comprehending two provinces and two colonies; and according to the *undoubted* bounds of their charters, containing more land than there is in the three kingdoms. But I muſt confine myſelf to matters of more importance than detecting the geographical blunders, or refuting the errors of dead, ſuperannuated or otherwiſe ſtupified ſecretaries of ſtate, who are now all out of place.

If I were to define the *modern* Coloniſts, I ſhould ſay, *they are the noble diſcoverers and ſettlers of a new world*; from whence, as from an endleſs ſource, *wealth* and *plenty*, the means of *power*, *grandeur* and *glory*, in a degree unknown to the hungry chiefs of former ages, have been powering into *Europe* for 300 years paſt: In return for which, thoſe Coloniſts have received from the ſeveral ſtates of *Europe*, except from *Great-Britain*, only ſince the revolution, nothing but ill-uſage, ſlavery and chains, as faſt as the riches of *their own* earning could furniſh the means of forging them.

A plantation or colony, is a ſettlement of ſubjects in a territory *disjointed* or *remote* from the mother country, and may be made by private adventurers or the public; but in both caſes the Coloniſts are intitled to as *ample* rights, liberties and privileges as the ſubjects of the mother country are, and in ſome reſpects *to more*.

Of the natural Rights of Coloniſts.

THOSE who expect to find any thing very ſatisfactory on this ſubject in particular, or with regard to the law of nature in general, in the writings of ſuch authors as *Grotius* and *Pufendorf*, will find themſelves much miſtaken. It is their conſtant practice to eſtabliſh the matter of right on the matter of *fact:* This the celebrated *Rouſſeau* expreſly ſays of *Grotius*, and with the ſame reaſon he might have added an hundred others. " The learned reſearches into the laws of nature and nations are often nothing more than the hiſtory of ancient abuſes, ſo that it is a ridiculous infatuation to be too fond of ſtudying them.*" " This was exactly the caſe with *Grotius*.†" The ſentiments on this ſubject have therefore been chiefly drawn from the purer fountains of one or two of our *Engliſh* writers, particularly from Mr. *Locke*, to whom might be added a *few* of other nations; for I have ſeen but a few of any country, and of all I have ſeen, there

* Marquis D'A. † Rouſſeau.

there are not ten worth reading. *Grotius*, B. 3. C. 1. ſec. 21. diſcourſing of confederates on unequal terms, according to his manner, ſays, " to the inequality in queſtion may be referred ſome of thoſe rights which are now called right of protection, right of patronage, and a right termed *mundiburgium*; as alſo that which mother cities had over their colonies among the Grecians. For as *Thucydides* ſays, thoſe colonies enjoyed the ſame rights of liberty with the other cities, but they owed a *reverence* to the city whence they derived their origin, and were obliged to render her reſpect and certain expreſſions of honour, *ſo long as the colony was well treated.*"

Grotius de jure belli, &c. B. 1. C. 3. 21.

" Hitherto alſo (ſays he) may be referred that ſeparation which is made when people *by one conſent*, go to form colonies. *For this is the original of a new and independent ſtate. They are not content to be ſlaves, but to enjoy equal privileges and freedom*, ſays *Thucydides*. And King *Tullius*, in Dion. Hali. ſays, *we look upon it to be neither truth nor juſtice, that mother cities ought of neceſſity and by the law of nature to rule over their colonies.*"

B. 2. C. 9. ſec. 10.

" Colonies, ſays Pufendorf, are ſettled in different methods. For either the colony continues a part of the common-wealth it was ſent out from, or elſe is obliged to pay a dutiful reſpect to the mother common-wealth, and to be in readineſs to defend and vindicate

its

its honour, and ſo is united to it by a ſort of unequal confederacy; or laſtly, is erected into a ſeparate common-wealth, and aſſumes the ſame rights with the ſtate it is deſcended from."——Pufend. B. 8. C. 11. 6.

"Different common-wealths may be formed out of one by common conſent, by ſending out colonies in the manner uſual in old Greece. For the Romans afterwards, when they ſent a colony abroad, continued it under the juriſdiction of the mother common-wealth, or greater country. But the colonies planted by the Greeks, and after their method, conſtituted particular common-wealths, which were obliged only to pay a kind of deference and dutiful ſubmiſſion to the mother common-wealth."——Pufend. B. 8 C. 12. ſec. 5.

From which paſſages it is manifeſt that theſe two great men only ſtate facts, and the opinions of others, without giving their own upon the ſubject: And all that can be collected from thoſe facts or opinions, is, that Greece was more generous, and a better mother to her colonies than Rome. The conduct of Rome towards her colonies, and the corruptions and oppreſſions tolerated in her provincial officers of all denominations, was one great cauſe of the downfall of that proud republic.

Dr. Strahan ſays, "there is a great affinity between the Britiſh colonies and thoſe of the Spaniards and other nations, who have made ſettlements among the Indians in thoſe parts:

For

For the grants made by our Kings of tracts of lands in that country, for the planting of colonies, and making ſettlements therein, appear to have been made in imitation of grants made by the Kings of Spain to the proprietors of lands in the Spaniſh colonies, upon the very ſame conditions, and in conſideration of the ſame ſervices to be performed by the grantees. So that the *government* of the Spaniſh colonies and the rights of the proprietors of lands therein, depending chiefly on the rules of civil and feudal law, as may be ſeen by the learned treatiſe of Solorzanus, *de indiarum jure*, the knowledge of the ſame laws muſt be of ſervice likewiſe for determining any controverſy that may ariſe touching the duties or forfeitures of the proprietors of lands in our Engliſh colonies.——Pref. to tranſlat. of Domat.

With ſubmiſſion to ſo great an authority as Dr. Strahan, it is humbly hoped that the Britiſh coloniſts do not hold their lands as well as liberties by ſo ſlippery a tenure as do the Spaniards and French. The will of the Prince is the only tenure by which *they* hold; and the government of the Spaniſh and French ſettlements is in every reſpect deſpotic.

It is well known that the firſt American grants were by the Bulls of the Popes. The Roman Pontiffs had for ages uſurped the moſt abominable power over princes: They granted away the kingdoms of the earth with as little ceremony as a man would leaſe a ſheep-cot. Now according to Dr. Strahan's logic, it may be inferred, that the canon law and the Popes

Bulls, muſt be of *ſervice likewiſe, for determining any controverſy that may ariſe, touching the duties or forfeitures of the proprietors of lands in the Britiſh colonies.* And indeed it muſt be owned, if we were to judge of ſome late proceedings * by this rule, we muſt allow that they ſavour more of modern Rome and the Inquiſition, than of the common law of England and the conſtitution of Great-Britain.

In order to form an idea of the natural rights of the Coloniſts, I preſume it will be granted that they are men, the common children of the ſame Creator with their brethren of Great-Britain. Nature has placed all ſuch in a ſtate of equality and perfect freedom, to act within the bounds of the laws of nature and reaſon, without conſulting the will or regarding the humour, the paſſions or whims of any other man, unleſs they are formed into a ſociety or body politic. This it muſt be confeſſed is rather an abſtract way of conſidering men than agreeable to the real and general courſe of nature. The truth is, as has been ſhewn, men came into the world and into ſociety at the ſame inſtant. But this hinders not but that the natural and original rights of each individual may be illuſtrated and explained in this way better than in any other. We ſee here by the way a probability, that this abſtract conſideration of men, which has its uſe in reaſoning on the principles of government, has inſenſibly led ſome of the greateſt men

* Of ſome American Courts of Admiralty, if the Reader pleaſes.

men to imagine, ſome real general ſtate of nature, agreeable to this abſtract conception, antecedent to and independent of ſociety. This is certainly not the caſe in general, for moſt men become members of ſociety from their birth, though ſeparate independent ſtates are really in the condition of perfect freedom and equality with regard to each other; and ſo are any number of individuals who ſeparate themſelves from a ſociety of which they have formerly been members, for ill treatment, or other good cauſe, with expreſs deſign to found another. If in ſuch caſe, there is a real interval, between the ſeparation and the new conjunction, during ſuch interval, the individuals are as much detached, and under the law of nature only, as would be two men who ſhould chance to meet on a deſolate iſland.

The Coloniſts are by the law of nature free born, as indeed all men are, white or black. No better reaſons can be given, for enſlaving thoſe of any colour, than ſuch as baron Monteſquieu has humourouſly given, as the foundation of that cruel ſlavery exerciſed over the poor Ethiopians; which threatens one day to reduce both Europe and America to the ignorance and barbarity of the darkeſt ages. Does it follow that it is right to enſlave a man becauſe he is black? Will ſhort curled hair, like wool, inſtead of Chriſtian hair, as it is called by thoſe whoſe hearts are as hard as the nether millſtone, help the argument? Can any logical inference in favour of ſlavery, be drawn from a flat noſe, a long or a ſhort face? No-

 thing

thing better can be ſaid in favour of a trade, that is the moſt ſhocking violation of the law of nature, has a direct tendency to diminiſh the idea of the ineſtimable value of liberty, and makes every dealer in it a tyrant, from the director of an African company to the petty chapman in needles and pins on the unhappy coaſt. It is a clear truth, that thoſe who every day barter away other mens liberty, will ſoon care little for their own. To this cauſe muſt be imputed that ferofity, cruelty, and brutal barbarity that has long marked the general character of the ſugar-iſlanders. They can in general form no idea of government but that which in perſon, or by an overſeer, the joint and ſeveral proper repreſentative of a Creole*, and of the D—l, is exerciſed over ten thouſands of their fellow men, born with the ſame right to freedom, and the ſweet enjoyments of liberty and life, as their unrelenting taſk-maſters, the overſeers and planters.

Is it to be wondered at, if, when people of the ſtamp of a Creolian planter get into power, they will not ſtick for a little preſent gain, at making their own poſterity, white as well as black, worſe ſlaves if poſſible than thoſe already mentioned.

There is nothing more evident, ſays Mr. Locke, than "that creatures of the ſame ſpecies

* Thoſe in England who borrow the terms of the Spaniards, as well as their notions of government, apply this term to all Americans of European Extract; but the Northern coloniſts apply it only to the Iſlanders and others of ſuch extract, under the Torrid Zone.

cies and rank, promiſcuouſly born to all the ſame advantages of nature and the uſe of the ſame faculties, ſhould alſo be equal one among another, without ſubordination and ſubjection, unleſs the maſter of them all ſhould by any manifeſt declaration of his will ſet one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and ſovereignty." "The natural liberty of man is to be free from any ſuperior power on earth, and not to be under the will or legiſlative authority of man, but only to have the law of nature for his rule." This is the liberty of independent ſtates; this is the liberty of every man out of ſociety, and who has a mind to live ſo; which liberty is only abridged in certain inſtances, not loſt to thoſe who are born in or voluntarily enter into ſociety; this gift of God cannot be annihilated.

The Coloniſts being men, have a right to be conſidered as equally entitled to all the rights of nature with the Europeans, and they are not to be reſtrained, in the exerciſe of any of theſe rights, but for the evident good of the whole community.

By being or becoming members of ſociety, they have not renounced their natural liberty in any greater degree than other good citizens, and if it is taken from them without their conſent they are ſo far inſlaved.

They have an undoubted right to expect, that their beſt good will ever be conſulted by their rulers, ſupreme and ſubordinate, without any partial views confined to the particular in-

intereſt of one iſland or another. Neither the riches of Jamaica, nor the luxury of a metropolis, ſhould ever have weight enough to break the balance of truth and juſtice. Truth and faith belong to men as men, from men, and if they are diſappointed in their juſt expectations of them in one ſociety, they will at leaſt wiſh for them in another. If the love of truth and juſtice, the only ſpring of ſound policy in any ſtate, is not ſtrong enough to prevent certain cauſes from taking place, the arts of fraud and force will not prevent the moſt fatal effects.

In the long run, thoſe who fall on arbitrary meaſures, will meet with their deſerved fate. The law of nature was not of man's making, nor is it in his power to mend it, or alter its courſe. He can only perform and keep, or diſobey and break it. The laſt is never done with impunity, even in this life, if it is any puniſhment for a man to feel himſelf depraved; to find himſelf degraded by his own folly and wickedneſs from the rank of a virtuous and good *man*, to that of a brute; or to be tranſformed from the friend, perhaps father of his country, to a devouring Lyon or Tyger.

The unhappy revolutions which for ages have diſtreſſed the human race, have been all owing to the want of a little wiſdom, common ſenſe and integrity, in the adminiſtration of thoſe, whom by their ſtations God had in kindneſs to the world, rendered able to do a great deal, for the benefit of mankind, with

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the exertion of a ſmall portion of private and public virtue.

Of the Political and Civil Rights of the Britiſh *Coloniſts.*

HERE indeed opens to view a large field; but I muſt ſtudy brevity—Few people have extended their enquiry after the foundation of any of their rights, beyond a charter from the crown. There are others who think when they have got back to old *Magna Charta*, that they are at the beginning of all things. They imagine themſelves on the borders of Chaos (and ſo indeed in ſome reſpects they are) and ſee creation riſing out of the unformed maſs, or from nothing. Hence, ſay they, ſpring all the rights of men and of citizens.——But liberty was better underſtood, and more fully enjoyed by our anceſtors, before the coming in of the firſt Norman Tyrants, than ever after, till it was found neceſſary, for the ſalvation of the kingdom, to combat the arbitrary and wicked proceedings of the Stuarts.

The preſent happy and moſt righteous eſtabliſhment is juſtly built on the ruins, which thoſe Princes brought on their family; and two of them on their own heads—The laſt of the name ſacrificed three of the fineſt kingdoms in Europe, to the councils of bigotted old women, prieſts, and more weak and wicked miniſters of ſtate: he afterward went a grazing in the fields of St. Germains, and there died in diſgrace and poverty, a terrible

example

example of God's vengeance on arbitrary princes!

The delivrance under God wrought by the prince of Orange, afterwards deſervedly made King William III. was as joyful an event to the colonies as to Great-Britain; in ſome of them, ſteps were taken in his favour as ſoon as in England.

They all immediately acknowledged King William and Queen Mary as their lawful Sovereign. And ſuch has been the zeal and loyalty of the colonies ever ſince for that eſtabliſhment, and for the proteſtant ſucceſſion in his preſent Majeſty's illuſtrious family, that I believe there is not one man in an hundred (except in Canada) who does not think himſelf under the beſt national civil conſtitution in the world.

Their loyalty has been abundantly proved, eſpecially in the late war. Their affection and reverence for their mother country is unqueſtionable. They yield the moſt chearful and ready obedience to her laws, particularly to the power of that auguſt body the parliament of Great-Britain, the ſupreme legiſlative of the kingdom and its dominions. Theſe I declare are my own ſentiments of duty and loyalty. I alſo hold it clear that the act of Queen Anne, which makes it high treaſon to deny "that the King with and by the authority of parliament, is able to make laws and ſtatutes of ſufficient force and validity to *limit* and *bind* the crown, and the deſcent, limitation, inheritance and *government* thereof," is

founded

founded on the principles of liberty and the Britiſh conſtitution: and he that would palm the doctrine of unlimited paſſive obedience and non-reſiſtance upon mankind, and thereby or by any other means ſerve the cauſe of the Pretender, is not only a fool and a knave, but a rebel againſt common ſenſe, as well as the laws of God, of Nature, and his Country.

☞ I alſo lay it down as one of the firſt principles from whence I intend to deduce the civil rights of the Britiſh colonies, that all of them are ſubject to, and dependent on Great-Britain; and that therefore as over ſubordinate governments, the parliament of Great-Britain has an undoubted power and lawful authority, to make acts for the general good, that by naming them, ſhall and ought to be equally binding, as upon the ſubjects of Great-Britain within the realm. This principle, I preſume, will be readily granted on the other ſide the Atlantic. It has been practiced upon for twenty years to my knowledge, in the province of the *Maſſachuſetts-Bay*; and I have ever received it, that it has been ſo from the beginning, in this and the ſiſter provinces, through the continent*.

I am aware, ſome will think it is time for me to retreat, after having expreſſed the power of the Britiſh parliament in quite ſo ſtrong terms. But it is from and under this very power and

* This however was formally declared as to Ireland, but ſo lately as the reign of *G.* I. Upon the old principles of conqueſt the Iriſh could not have ſo much to ſay for an exemption, as the unconquered Coloniſts.

its acts, and from the common law, that the political and civil rights of the Coloniſts are derived: and upon thoſe grand pillars of liberty ſhall my defence be reſted. At preſent therefore the reader may ſuppoſe, that there is not one provincial charter on the continent; he may, if he pleaſes, imagine all taken away, without fault, without forfeiture, without trial or notice. All this really happened to ſome of them in the laſt century. I would have the reader carry his imagination ſtill further, and ſuppoſe a time may come when inſtead of a proceſs at common law, the parliament ſhall give a deciſive blow to every charter in America, and declare them all void. Nay it ſhall alſo be granted, that it is barely poſſible, the time may come, when the real intereſt of the whole may require an act of parliament to annihilate all thoſe charters. What could follow from all this, that would ſhake one of the eſſential, natural, civil or religious rights of the Coloniſts? Nothing. They would be men, citizens and Britiſh ſubjects after all. No act of parliament can deprive them of the liberties of ſuch, unleſs any will contend that an act of parliament can make ſlaves not only of one, but of two millions of the commonwealth. And if ſo, why not of the whole? I freely own, that I can find nothing in the laws of my country, that would juſtify the parliament in making one ſlave, nor did they ever profeſſedly undertake to make one.

Two or three innocent colony charters have been threatened with deſtruction an hundred

and

and forty years paſt. I wiſh the preſent enemies of thoſe harmleſs charters would reflect a moment, and be convinced that an act of parliament that ſhould demoliſh thoſe bugbears to the foes of liberty, would not reduce the Coloniſts to a ſtate of abſolute ſlavery. The worſt enemies of the charter governments are by no means to be found in England. It is a piece of juſtice due to Great-Britain to own, they are and have ever been natives of or reſidents in the colonies. A ſet of men in America, without honour or love to their country, have been long graſping at powers, which they think unattainable while theſe charters ſtand in the way. But they will meet with inſurmountable obſtacles to their project for enſlaving the Britiſh colonies, ſhould thoſe, ariſing from provincial charters be removed. It would indeed ſeem very hard and ſevere for thoſe of the coloniſts who have charters with peculiar privileges to loſe them. They were given to their anceſtors, in conſideration of their ſufferings and merit, in diſcovering and ſettling America. Our fore-fathers were ſoon worn away in the toils of hard labour on their little plantations, and in war with the ſavages. They thought they were earning a ſure inheritance for their poſterity. Could they imagine it would ever be thought juſt to deprive them or theirs of their charter privileges! Should this ever be the caſe, there are, thank God, natural, inherent and inſeparable rights as men, and as citizens, that would remain after the ſo-much-wiſhed-for cataſtrophe, and

which, whatever became of charters, can never be abolished *de jure*, if *de facto*, till the general conflagration *. Our rights as men and freeborn British subjects, gave all the colonists enough to make them very happy in comparison with the subjects of any other prince in the world.

Every British Subject born on the continent of America, or in any other of the British dominions, is by the law of God and nature, by the common law, and by act of parliament, (exclusive of all charters from the crown) entitled to all the natural, essential, inherent and inseparable rights of our fellow subjects in Great-Britain. Among those rights are the following, which it is humbly conceived no man or body of men, not excepting the parliament, justly, equitably and consistently with their own rights and the constitution, can take away.

1st. *That the supreme and subordinate powers of legislation should be free and sacred in the hands where the community have once rightfully placed them.*

2dly. *The supreme national legislative cannot be altered justly till the commonwealth is dissolved, nor a subordinate legislative taken away without forfeiture or other good cause.* Nor then can the subjects in the subordinate government

* The fine defence of the provincial charters by *Jeremy Dummer*, Esq; the late very able and learned agent for the province of *Massachusetts-Bay*, makes it needless to go into a particular consideration of charter privileges. That piece is unanswerable, but by power and might, and other arguments of that kind.

ment be reduced to a ſtate of ſlavery, and ſubject to the deſpotic rule of others. A ſtate has no right to make ſlaves of the conquered. Even when the ſubordinate right of legiſlature is forfeited, and ſo declared, this cannot affect the natural perſons either of thoſe who were inveſted with it, or the inhabitants*, ſo far as to deprive them of the rights of ſubjects and of men.—The coloniſts will have an equitable right, notwithſtanding any ſuch forfeiture of charter to be repreſented in parliament, or to have ſome new ſubordinate legiſlature among themſelves. It would be beſt if they had both. Deprived, however, of their common rights as ſubjects, they cannot lawfully be, while they remain ſuch. A repreſentation in Parliament from the ſeveral colonies, ſince they are become ſo large and numerous, as to be called on not only to maintain provincial government, civil and military, among themſelves, for this they have chearfully done, but to contribute towards the ſupport of a national ſtanding army, by reaſon of the heavy national debt, when they themſelves owe a large one, contracted in the common cauſe, cannot be thought an unreaſonable thing, nor if aſked, could it be called an immodeſt requeſt. *Qui ſentit commodum ſentire debet et onus*, has been thought a maxim of equity. But that a man ſhould bear a burthen for other people, as well as himſelf, without a return, never long found a place in any law-book or decrees, but thoſe of

* See Magna Charta, the Bill of Rights. 3 Mod. 152. 2 Salkeld 411. Vaughan 300.

of the moſt deſpotic princes. Beſides the equity of an American repreſentation in parliament, a thouſand advantages would reſult from it. It would be the moſt effectual means of giving thoſe of both countries a thorough knowledge of each others intereſts; as well as that of the whole, which are inſeparable.

Were this repreſentation allowed; inſtead of the ſcandalous memorials and depoſitions that have been ſometimes, in days of old, privately cooked up in an inquiſitorial manner, by perſons of bad minds and wicked views, and ſent from America to the ſeveral boards, perſons of the firſt reputation among their countrymen, might be on the ſpot, from the ſeveral colonies, truly to repreſent them. Future miniſters need not, like ſome of their predeceſſors, have recourſe for information in American affairs, to every vagabond ſtroller, that has run or rid poſt through America, from his creditors, or to people of no kind of reputation from the colonies; ſome of whom, at the time of adminiſtering their ſage advice, have been as ignorant of the ſtate of this country, as of the regions in Jupiter and Saturn.

No repreſentation of the colonies in parliament alone, would, however, be equivalent to a ſubordinate legiſlative among themſelves; nor ſo well anſwer the ends of increaſing their proſperity and the commerce of Great-Britain. It would be impoſſible for the parliament to judge ſo well of their abilities to bear taxes, impoſitions on trade, and other duties and bur-

burthens, or of the local laws that might be really needful, as a legiſlative here.

3dly. *No legiſlative, ſupreme or ſubordinate, has a right to make itſelf arbitrary.*

It would be a moſt manifeſt contradiction, for a free legiſlative, like that of Great-Britain, to make itſelf arbitrary.

4thly. *The ſupreme legiſlative cannot juſtly aſſume a power of ruling by extempore arbitrary decrees, but is bound to diſpenſe juſtice by known ſettled rules,* and by duly *authorized independent judges.*

5thly. *The ſupreme power cannot take from any man any part of his property,* without his conſent in *perſon or by repreſentation.*

6thly. *The legiſlative cannot transfer the power of making laws to any other hands.*

Theſe are their bounds, which by God and nature are fixed, hitherto have they a right to come and no further.

1. *To govern by ſtated laws.*

2. *Thoſe laws ſhould have no other end ultimately, but the good of the people.*

3. *Taxes are not to be laid on the people, but by their conſent in perſon, or by deputation.*

4. *Their whole power is not transferable*.*

Theſe are the firſt principles of law and juſtice, and the great barriers of a free ſtate and of the Britiſh conſtitution in particular. I aſk, I want no more—Now let it be ſhewn how it is reconcileable with theſe principles, or to many other fundamental maxims of the Britiſh conſtitution, as well as the natural and civil

* See Locke on Government, B. II. C. xi.

vil rights, which by the laws of their country, all Britiſh ſubjects are entitled to, as their beſt inheritance and birth-right, that all the northern colonies, who are without one repreſentative in the houſe of commons, ſhould be taxed by the Britiſh parliament,

That the coloniſts, black and white, born here, are free-born Britiſh ſubjects, and entitled to all the eſſential civil rights of ſuch, is a truth not only manifeſt from the provincial charters, from the principles of the common law, and acts of parliament; but from the Britiſh conſtitution which was re-eſtabliſhed at the revolution, with a profeſſed deſign to ſecure the liberties of all the ſubjects to all generations *.

In the 12 and 13 of Wm: cited above, the liberties of the ſubject are ſpoken of as their beſt birth-rights—No one ever dreamed, ſurely, that theſe liberties were confined to the realm. At that rate no Britiſh ſubjects in the dominions could, without a manifeſt contradiction, be declared entitled to all the privileges of ſubjects born within the realm, to all intents and purpoſes, which are rightly given foreigners, by parliament, after reſiding ſeven years. Theſe expreſſions of parliament, as well as of the charters, muſt be vain and empty ſounds, unleſs we are allowed the eſſential rights of our fellow-ſubjects in Great Britain.

Now can there be any liberty, where property is taken away without conſent? Can it with

* See the convention, and acts confirming it.

with any colour of truth, juſtice or equity, be affirmed, that the northern colonies are repreſented in parliament? Has this whole continent, of near three thouſand miles in length, and in which, and his other American dominions, his Majeſty has, or very ſoon will have ſome millions of as good, loyal and uſeful ſubjects, white and black, as any in the three kingdoms, the election of one member of the houſe of commons?

Is there the leaſt difference, as to the conſent of the Coloniſts, whether taxes and impoſitions are laid on their trade, and other property, by the crown alone, or by the parliament? As it is agreed on all hands, the Crown alone cannot impoſe them, we ſhould be juſtifiable in refuſing to pay them, but muſt and ought to yield obedience to an act of parliament, though erroneous, till repealed.

I can ſee no reaſon to doubt, but that the impoſition of taxes, whether on trade, or on land, or houſes, or ſhips, on real or perſonal, fixed or floating property, in the colonies, is abſolutely irreconcileable with the rights of the Coloniſts, as Britiſh ſubjects, and as men. I ſay men, for in a ſtate of nature, no man can take my property from me, without my conſent: If he does, he deprives me of my liberty, and makes me a ſlave. If ſuch a proceeding is a breach of the law of nature, no law of ſociety can make it juſt.—The very act of taxing, exerciſed over thoſe who are not repreſented, appears to me to be depriving them of one of their moſt eſſential rights, as

freemen; and if continued, ſeems to be in effect an intire disfranchiſement of every civil right. For what one civil right is worth a ruſh, after a man's property is ſubject to be taken from him at pleaſure, without his conſent? If a man is not his *own aſſeſſor* in perſon, or by deputy, his liberty is gone, or lays intirely at the mercy of others.

I think I have heard it ſaid, that when the Dutch are aſked why they enſlave their colonies, their anſwer is, that the liberty of Dutchmen is confined to Holland; and that it was never intended for Provincials in America, or any where elſe. A ſentiment this, very worthy of modern Dutchmen; but if their brave and worthy anceſtors had entertained ſuch narrow ideas of liberty, ſeven poor and diſtreſſed provinces would never have aſſerted their rights againſt the whole Spaniſh monarchy, of which the preſent is but a ſhadow. It is to be hoped, none of our fellow ſubjects of Britain, great or ſmall, have borrowed this Dutch maxim of plantation politics; if they have, they had better return it from whence it came; indeed they had. Modern Dutch or French maxims of ſtate, never will ſuit with a Britiſh conſtitution. It is a maxim, that the King can do no wrong; and every good ſubject is bound to believe his King is not inclined to do any. We are bleſſed with a prince who has given abundant demonſtrations, that in all his actions, he ſtudies the good of his people and the true glory of his crown, which are inſeparable. It would therefore be the higheſt

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degree of impudence and diſloyalty to imagine that the King, at the head of his parliament, could have any, but the moſt pure and perfect intention of juſtice, goodneſs and truth, that human nature is capable of. All this I ſay and believe of the King and parliament, in all their acts; even in that which ſo nearly affects the intereſt of the coloniſts; and that a moſt perfect and ready obedience is to be yielded to it, while it remains in force. I will go further, and really admit, that the intention of the miniſtry was not only to promote the public good, by this act, but that Mr. Chancellor of the Exchequer had therein a particular view to the " eaſe, the quiet, and the good will of the Colonies," he having made this declaration more than once. Yet I hold that it is poſſible he may have erred in his kind intentions towards the Colonies, and taken away our fiſh, and given us a ſtone. With regard to the parliament, as infallibility belongs not to mortals, it is poſſible *they* may have been miſinformed and deceived. The power of parliament is uncontroulable but by themſelves, and we muſt obey. They only can repeal their own acts. There would be an end of all government, if one or a number of ſubject or ſubordinate provinces ſhould take upon them ſo far to judge of the juſtice of an act of parliament, as to refuſe obedience to it. If there was nothing elſe to reſtrain ſuch a ſtep, prudence ought to do it, for forcibly reſiſting the parliament and the King's laws, is high treaſon. Therefore let the parliament lay

what burthens they pleaſe on us, we muſt, it is our duty to ſubmit and patiently bear them, till they will be pleaſed to relieve us. And it is to be preſumed, the wiſdom and juſtice of that auguſt aſſembly, always will afford us relief by repealing ſuch acts, as through miſtake, or other human infirmities, have been ſuffered to paſs, if they can be convinced that their proceedings are not conſtitutional, or not for the common good.

The parliament may be deceived, they may have been miſinformed of facts, and the colonies may in many reſpects be miſrepreſented to the King, his parliament, and his miniſtry. In ſome inſtances, I am well aſſured the colonies have been very ſtrangely miſrepreſented in England. I have now before me a pamphlet, called "The Adminiſtration of the Colonies," ſaid to be written by a gentleman who formerly commanded in chief in one of them. I ſuppoſe this book was deſigned for public information and uſe. There are in it many good regulations propoſed, which no power can enforce but the parliament. From all which I infer, that if our hands are tied by the paſſing of an act of parliament, our mouths are not ſtopped, provided we ſpeak of that tranſcendent body with decency, as I have endeavoured always to do; and ſhould any thing have eſcaped me, or hereafter fall from my pen, that bears the leaſt aſpect but that of obedience, duty and loyalty to the King and parliament, and the higheſt reſpect for the miniſtry, the candid will impute it to

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the agony of my heart, rather than to the pravity of my will. If I have one ambitious wiſh, it is to ſee Great-Britain at the head of the world, and to ſee my King, under God, the father of mankind. I pretend neither to the ſpirit of prophecy, nor any uncommon ſkill in predicting a Criſis, much leſs to tell when it begins to be "*naſcent*" or is fairly midwiv'd into the world. But if I were to fix a meaning to the two firſt paragraphs of the *Adminiſtration of the Colonies*, though I do not collect it from them, I ſhould ſay the world was at the eve of the higheſt ſcene of earthly power and grandeur that has been ever yet diſplayed to the view of mankind. The cards are ſhuffling faſt through all Europe. Who will win the prize is with God. This however I know, *detur digniori.* The next univerſal monarchy will be favourable to the human race, for it muſt be founded on the principles of equity, moderation and juſtice. No country has been more diſtinguiſhed for theſe principles than Great-Britain, ſince the revolution. I take it, every ſubject has a right to give his ſentiments to the public, of the utility or inutility of any act whatſoever, even after it is paſſed, as well as while it is pending—The equity and juſtice of a bill may be queſtioned, with perfect ſubmiſſion to the legiſlature. Reaſons may be given, why an act ought to be repealed, and yet obedience muſt be yielded to it till that repeal takes place. If the reaſons that can be given againſt an act, are ſuch as plainly demonſtrate that it is againſt *natural* equity, the ex-

executive courts will adjudge ſuch acts void. It may be queſtioned by ſome, though I make no doubt of it, whether they are not obliged by their oaths to adjudge ſuch acts void. If there is not a right of private judgement to be exerciſed, ſo far at leaſt as to petition for a repeal, or to determine the expediency of riſking a trial at law, the parliament might make itſelf arbitrary, which it is conceived it cannot by the conſtitution.—I think every man has a right to examine as freely into the origin, ſpring and foundation of every power and meaſure in a commonwealth, as into a piece of curious machinery, or a remarkable phenomenon in nature; and that it ought to give no more offence to ſay, the parliament have erred, or are miſtaken, in a matter of fact, or of right,, than to ſay it of a private man, if it is true of both. If the aſſertion can be proved with regard to either, it is a kindneſs done them to ſhew them the truth. With regard to the public, it is the duty of every good citizen to point out what he thinks erroneous in the commonwealth.

I have waited years in hopes to ſee ſome one friend of the colonies pleading in public for them. I have waited in vain. One privilege is taken away after another, and where we ſhall be landed, God knows, and I truſt will protect and provide for us even ſhould we be driven and perſecuted into a more weſtern wilderneſs, on the ſcore of liberty, civil and religious, as many of our anceſtors were, to theſe once inhoſpitable ſhores of America. I had

had formed great expectations from a gentleman, who publiſhed his firſt volume in quarto on the rights of the colonies two years ſince; but, as he foreſaw, the ſtate of his health and affairs have prevented his further progreſs. The misfortune is, gentlemen in America, the beſt qualified in every reſpect to ſtate the rights of the coloniſts, have reaſons that prevent them from engaging: ſome of them have good ones. There are many infinitely better able to ſerve this cauſe than I pretend to be; but from indolence, from timidity, or by neceſſary engagements, they are prevented. There has been a moſt profound, and I think ſhameful ſilence, till it ſeems almoſt too late to aſſert our indiſputable rights as men and as citizens. What muſt poſterity think of us. The trade of the whole continent taxed by parliament, ſtamps and other internal duties and taxes as they are called, talked of, and not one petition to the King and parliament for relief.

I cannot but obſerve here, that if the parliament have an equitable right to tax our trade, it is indiſputable that they have as good an one to tax the lands, and every thing elſe. The taxing trade furniſhes one reaſon why the other ſhould not be taxed, or elſe the burdens of the province will be unequally born, upon a ſuppoſition that a tax on trade is not a tax on the whole. But take it either way, there is no foundation for the diſtinction ſome make in England between an internal and external tax on the colonies. By the firſt is meant a tax on

trade,

trade, by the latter a tax on land, and the things on it. A tax on trade is either a tax of every man in the province, or it is not. If it is not a tax on the whole, it is unequal and unjuſt, that a heavy burden ſhould be laid on the trade of the colonies, to maintain an army of ſoldiers, cuſtom-houſe officers, and fleets of guard-ſhips; all which, the incomes of both trade and lands would not furniſh means to ſupport ſo lately as the laſt war, when all was at ſtake, and the colonies were reimburſed in part by parliament. How can it be ſuppoſed that all of a ſudden the trade of the colonies alone can bear all this terrible burden. The late acquiſitions in America, as glorious as they have been, and as beneficial as they are to Great-Britain, are only a ſecurity to theſe colonies againſt the ravages of the French and Indians. Our trade upon the whole is not, I believe, benefited by them one groat. All the time the French Iſlands were in our hands, the fine ſugars, &c. were all ſhipped home. None as I have been informed were allowed to be brought to the colonies. They were too delicious a morſel for a North American palate. If it be ſaid that a tax on the trade of the colonies is an equal and juſt tax on the whole of the inhabitants: What then becomes of the notable diſtinction between external and internal taxes? Why may not the parliament lay ſtamps, land taxes, eſtabliſh tythes to the church of England, and ſo indefinitely. I know of no bounds. I do not mention the tythes out of any diſreſpect to the church of Eng-

England, which I eſteem by far the beſt *national* church, and to have had as ornaments of it many of the greateſt and beſt men in the world. But to thoſe colonies who in general diſſent from a principle of conſcience, it would ſeem a little hard to pay towards the ſupport of a worſhip, whoſe modes they cannot conform to.

If an army muſt be kept up in America, at the expence of the colonies, it would not ſeem quite ſo hard if after the parliament had determined the ſum to be raiſed, and apportioned it, to have allowed each colony to aſſeſs its quota, and raiſe it as eaſily to themſelves as might be. But to have the whole levied and collected without our conſent is extraordinary. It is allowed even to *tributaries*, and thoſe laid under *military* contribution, to aſſeſs and collect the ſums demanded. The caſe of the provinces is certainly likely to be the hardeſt that can be inſtanced in ſtory. Will it not equal any thing but downright military execution? Was there ever a tribute impoſed even on the conquered? A fleet, an army of ſoldiers, and another of tax-gatherers kept up, and not a ſingle office either for ſecuring or collecting the duty in the gift of the tributary ſtate.

I am aware it will be objected, that the parliament of *England*, and of Great-Britain, ſince the union, have from early days to this time, made acts to bind if not to tax Ireland: I anſwer, Ireland is a *conquered* country. I do not, however, lay ſo much ſtreſs on this; for

it is my opinion, that a *conquered* country has, upon ſubmiſſion and good behaviour, the ſame right to be free, under a conqueror, as the reſt of his ſubjects. But the old notion of the *right of conqueſt*, has been, in moſt nations, the cauſe of many ſeverities and heinous breaches of the law of nature: If any ſuch have taken place with regard to *Ireland*, they ſhould form no precedent for the colonies. The ſubordination and dependency of *Ireland* to Great-Britain, is expreſly declared by act of parliament, in the reign of *Geo.* I. The ſubordination of the *Colonies* to Great-Britain, never was doubted by a lawyer, if at all; unleſs perhaps by the author of the *Adminiſtration of the colonies:* He indeed ſeems to make a moot point of it, whether the colony legiſlative power is as independent " as the legiſlative Great-Britain holds by its conſtitution, and under the great charter."—The *people* hold under the great charter, as it is vulgarly expreſſed from our law-books: But that the King and parliament ſhould be ſaid to hold under *Magna Charta,* is as new to me, as it is to queſtion whether the colonies are *ſubordinate* to Great-Britain. The provincial legiſlative is unqueſtionably ſubordinate to that of Great-Britain. I ſhall endeavour more fully to explain the nature of that ſubordination, which has puzzled ſo many in their enquiries. It is often very difficult for great lovers of power, and great lovers of liberty, neither of whom may have been uſed to the ſtudy of law in any of its branches, to ſee the difference be-

between ſubordination, abſolute ſlavery and ſubjection on one ſide, and liberty, independence and licenciouſneſs on the other. We ſhould endeavour to find the middle road, and confine ourſelves to it. The laws, the proceedings of parliament, and the deciſions of the judges, relating to *Ireland*, will reflect light on this ſubject, rendered intricate only by *art*.

" Ireland being of itſelf a diſtinct dominion, and no part of the kingdom of England (as it directly appeareth by many authorities in Calvin's caſe) was to have PARLIAMENTS holden there as in England." 4 Inſt. 349.

Why ſhould not the colonies have, why are they not entitled to their aſſemblies, or parliaments, at leaſt, as well as a conquered dominion?

" Wales, after the conqueſt of it by Edward the Firſt, was annexed to England, *jure proprietatis*, 12 *Ed.* I. by the ſtatute of Rutland only, and after, more really by 27 *H.* 8. and 34, but at firſt received laws from England, as Ireland did; but writs proceeded not out of the Engliſh chancery, but they had a chancery of their own, as Ireland hath; was not bound by the laws of England, unnamed till 27 *H.* 8. no more than Ireland is,

Ireland in nothing differs from it, but having a parliament *gratia Regis* (i. e. upon the old notion of conqueſt) ſubject (truly however) to the parliament of England. None doubts Ireland as much conquered as it; *and as much*

ſubject to the parliament of England, if it pleaſe."
Vaughan. 300.

A very ſtrong argument ariſes from this authority, in favour of the *unconquered* plantations. If ſince Wales was annexed to England, they have had a repreſentation in parliament, as they have to this day; and if the parliament of England does not tax *Ireland*, can it be right they ſhould tax *us*, who have never been *conquered*, but came from England to *colonize*, and have always remaind *good ſubjects* to this day?

I cannnot find any inſtance of a tax laid by the Engliſh parliament on *Ireland*. "Sometimes the King of England called his Nobles of Ireland, to come to his parliament of England, *&c.* and by ſpecial words, the parliament of England may bind the ſubjects of Ireland."—3 *Inſt.* 350.—

The following makes it clear to me, the parliament of Great-Britain do not tax *Ireland*. "The parliament of Ireland having been prorogued to the month of Auguſt *next before they had provided for the maintenance of the government in that kingdom, a project* was ſet on foot here to ſupply that defect, by retrenching the drawbacks upon goods exported thither from England. According to this ſcheme, the 22d, the houſe in a grand committee, conſidered the preſent laws with reſpect to drawbacks upon tobaccoes, muſlins, and Eaſt India ſilks, carried to Ireland; and came to two reſolutions, which were reported the next day, and, with an amendment to one of them,

agreed

agreed to by the houſe, as follows, *viz.* 1. That three pence *per* pound, part of the drawback on tobacco to be exported from Great-Britain for Ireland, be taken off.

2. That the ſaid diminution of the drawback to take effect upon all tobacco exported for Ireland, after the 24th of March 1713. and continue until the additional duty of three pence halfpenny *per* pound upon tobacco in Ireland, expiring on the ſaid 24th of March, be *regranted*; and ordered a bill to be brought in, upon the ſaid reſolutions."

Proceedings of Houſe of Com. Vol. 5. 72.

This was conſtitutional; there is an infinite difference between taking off Britiſh drawbacks, and impoſing Iriſh or other Provincial duties.

"Ireland is conſidered as a provincial government, ſubordinate to, but no part of the Realm of England," Mich. 11. G. 2. in caſe of Otway and Ramſay——" Acts of parliaments made here (*i. e.* in England) extend not to Ireland, unleſs particularly named; much leſs judgments obtained in the courts here; nor is it poſſible they ſhould, becauſe we have no officers to carry them into execution there." *ib.*

The firſt part ſeems to be applicable to the plantations in general, the latter is not; for by reaſon of charter reſervations and particular acts of parliament, ſome judgments in England may be executed here, as final judgments, before his Majeſty in council on a plantation appeal, and ſo from the admiralty.

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It ſeems to have been diſputed in Ireland, ſo lately as the 6 Geo. 1. Whether any act of the Britiſh parliament bound Ireland; or at leaſt it was apprehended, that the undoubted right of the Britiſh parliament to bind Ireland, was in danger of being ſhaken: this, I preſume, occaſioned the act of that year, which declares, that "the kingdom of Ireland ought to be ſubordinate unto and dependent upon the Imperial Crown of Great-Britain, as being inſeparably united thereto. And the King's Majeſty, with the conſent of the lords and commons of Great-Britain in parliament, hath power to make laws to bind the people of Ireland."—This parliamentary power muſt have ſome bounds, even as to *Ireland*, as well as the colonies, who are admitted to be ſubordinate *ab initio* to Great-Britain; not as *conquered*, but as *emigrant* ſubjects. If this act ſhould be ſaid to be a declaration not only of the general, but of the univerſal power of parliament, and that they may tax Ireland, I aſk, Why it has never been done? If it had been done a thouſand times, it would be a contradiction to the principles of a free government; and what is worſe, deſtroy all ſubordination conſiſtent with *freedom*, and reduce the people to *ſlavery*.

To ſay the parliament is abſolute and arbitrary, is a contradiction. The parliament cannot make 2 and 2, 5: Omnipotency cannot do it. The ſupreme power in a ſtate, is *jus dicere* only:—*jus dare*, ſtrictly ſpeaking, belongs alone to God. Parliaments are in all

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caſes to *declare* what is for the good of the whole; but it is not the *declaration* of parliament that makes it ſo: There muſt be in every inſtance, a higher authority, *viz.* GOD. Should an act of parliament be againſt any of *his* natural laws, which are *immutably* true, *their* declaration would be contrary to eternal truth, equity and juſtice, and conſequently void: and ſo it would be adjudged by the parliament itſelf, when convinced of their miſtake. Upon this great principle, parliaments repeal ſuch acts as ſoon as they find they have been miſtaken, in having declared them to be for the public good, when in fact they were not ſo. When ſuch miſtake is evident and palpable, as in the inſtances in the appendix, the judges of the executive courts have declared the act "of a whole parliament void." See here the grandeur of the Britiſh conſtitution! See the wiſdom of our anceſtors! The ſupreme *legiſlative*, and the ſupreme *executive*, are a perpetual check and balance to each other. If the ſupreme executive errs, it is informed by the ſupreme legiſlative in parliament: if the ſupreme legiſlative errs, it is informed by the ſupreme executive in the King's courts of law. Here the King appears, as repreſented by his judges, in the higheſt luſtre and majeſty, as ſupreme executor of the commonwealth; and he never ſhines brighter, but on his throne, at the head of the ſupreme legiſlative. This is government! This is a conſtitution! to preſerve which, either from foreign or domeſtic foes, has coſt oceans of blood and treaſure in

every

every age; and the blood and the treaſure have upon the whole been well ſpent. Britiſh America, hath been bleeding in this cauſe from its ſettlement: we have ſpent all we could raiſe, and more; for notwithſtanding the parliamentary reimburſements of part, we ſtill remain much in debt. The province of the *Maſsachuſetts*, I believe, has expended more men and money in war ſince the year 1620, when a few families firſt landed at Plymouth, in proportion to their ability, than the three Kingdoms together. The ſame, I believe, may be truly affirmed, of many of the other colonies; though the *Maſsachuſetts* has undoubtedly had the heavieſt burthen. This may be thought incredible: but materials are collecting; and though ſome are loſt, enough may remain, to demonſtrate it to the world. I have reaſon to hope at leaſt, that the public will ſoon ſee ſuch proofs exhibited, as will ſhew, that I do not ſpeak quite at random.

Why then is it thought ſo heinous by the author of the adminiſtration of the colonies, and others, that the coloniſts ſhould aſpire after "a one whole legiſlative power" not independent of, but ſubordinate to the laws and parliament of Great-Britain?—It is a miſtake in this author, to bring ſo heavy a charge as *high treaſon* againſt ſome of the coloniſts, which he does in effect in this place*, by repreſenting them as "claiming in fact or indeed, the ſame full free independent unreſtrained power and legiſlative will, in their ſeveral

* Page 39 of the adminiſtration.

veral corporations, and under the King's commiſſion and their reſpective charters, as the government and legiſlature of Great-Britain holds by its conſtitution and under the great charter." No ſuch claim was ever thought of by any of the coloniſts. They are all better men and better ſubjects; and many of them too well verſed in the laws of nature and nations, and the law and conſtitution of Great-Britain, to think they have a right to more than a *provincial ſubordinate legiſlative*. All power is of GOD. Next and only ſubordinate to him in the preſent ſtate of the well-formed, beautifully conſtructed Britiſh monarchy, ſtanding where I hope it ever will ſtand, for the pillars are fixed in judgment, righteouſneſs and truth, is the King and parliament. Under theſe, it ſeems eaſy to conceive ſubordinate powers in gradation, till we deſcend to the legiſlative of a town council, or even a private ſocial club. Theſe have each "a one whole legiſlative" ſubordinate, which, when it does not counteract the laws of any of its ſuperiors, is to be indulged. Even when the laws of ſubordination are tranſgreſſed, the ſuperior does not deſtroy the ſubordinate, but will negative its acts, as it may in all caſes when diſapproved. This right of negative is eſſential, and may be inforced: but in no caſe are the eſſential rights of the ſubjects, inhabiting the ſubordinate dominions, to be deſtroyed. This would put it in the power of the ſuperior to reduce the inferior to a ſtate of ſlavery; which cannot be rightfully done,

even with *conquered* enemies and *rebels*. After ſatisfaction and ſecurity is obtained of the former, and examples are made of ſo many of he latter, as the ends of government require, tthe reſt are to be reſtored to all the eſſential rights of men and citizens. This is the great law of nature; and agreeable to this law, is the conſtant practice of all good and mild governments. This lenity and humanity has no where been carried farther than in Great-Britain. The Colonies have been ſo remarkable for loyalty, that there never has been any inſtance of rebellion or treaſon in them. This loyalty is, in very handſome terms, acknowledged by the author of the *adminiſtration of the colonies*. "It has been often ſuggeſted, that care ſhould be taken in the adminiſtration of the plantations, leſt, in ſome future time, theſe colonies ſhould become independent of the mother-country." But perhaps it may be proper on this occaſion, nay, it is juſtice to ſay it, that if, by becoming independent, is meant a revolt, nothing is farther from their nature, their intereſts, their thoughts. If a defection from the *alliance* of the mother country be ſuggeſted, it ought to be, and can be truly ſaid that their ſpirit abhors the ſenſe of ſuch; their attachment to the proteſtant ſucceſſion in the houſe of Hanover, will ever ſtand unſhaken; and nothing can eradicate from their hearts, their natural and almoſt mechanical affection to Great-Britain, which they conceive under no other ſenſe, nor call it by any other name than that of *home*. Any ſuch

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ſuggeſtion, therefore, is a falſe and unjuſt aſperſion on their principles and affection; and can ariſe from nothing but an intire ignorance of their circumſtances*." After all this loyalty, it is a little hard to be charged with claiming, and repreſented as aſpiring after independency. The inconſiſtency of this I leave. We have ſaid that the loyalty of the colonies has never been ſuſpected; this muſt be reſtricted to a juſt ſuſpicion. For it ſeems there have long been groundleſs ſuſpicions of us in the minds of individuals. And there have always been thoſe who have endeavoured to magnify theſe chimerical fears. I find Mr. Dummer complaining of this many years ſince. "There is, ſays he, one thing more I have heard often urged againſt the charter-colonies, and indeed it is what one meets with from people of all conditions and qualities; though, with due reſpect to their better judgments, I can ſee neither reaſon nor colour for it. It is ſaid that their increaſing numbers and wealth, joined to their great diſtance from Britain, will give them an opportunity, in the courſe of ſome years, to throw off their dependence on the nation, and declare themſelves a free ſtate, if not curbed in time, by being made *entirely ſubject to the crown*†."

This jealouſy has been ſo long talked of, that many ſeem to believe it well grounded. Not that there is any danger of "a revolt," even in the opinion of the *author of the adminiſtration*, but that the coloniſts will by fraud or

 force

* Adminiſtration, p. 25, 26. † Defence, 60.

force, avail themſelves, in " fact or in deed", of an independent legiſlature. This, I think, woud be a revolting with a vengeance. What higher revolt can their be, than for a province to aſſume the right of an independent legiſlative, or ſtate? I muſt therefore think this a greater aſperſion on the Coloniſts, than to charge them with a deſign to revolt, in the ſenſe in which the Gentleman allows they have been abuſed: It is a more artful and dangerous way of attacking our liberties, than to charge us with being in open rebellion. That could be confuted inſtantly: but this ſeeming indirect way of charging the colonies, with a deſire of throwing off their dependency, requires more pains to confute it than the other, therefore it has been recurred to. The truth is, Gentlemen have had departments in America, the functions of which they have not been fortunate in executing. The people have by theſe means been rendered uneaſy, at bad Provincial Meaſures. They have been repreſented as factious, ſeditious, and inclined to democracy, whenever they have refuſed paſſive obedience to provincial mandates, as arbitrary as thoſe of a Turkiſh Baſhaw: I ſay, Provincial mandates; for to the King and Parliament they have been ever ſubmiſſive and obedient.

Theſe repreſentations of us, many of the good people of England ſwallow with as much eaſe, as they would a bottle-bubble, or any other ſtory of a cock and a bull; and the worſt of it is, among ſome of the moſt credulous, have been found Stars and Garters. However,

they

they may all reſt aſſured, the Coloniſts, who do not pretend to underſtand themſelves ſo well as the people of England; though the author of the Adminiſtration makes them the fine compliment, to ſay, they "know their buſineſs much better," yet, will never think of independency. Were they inclined to it, they know the blood and the treaſure it would coſt, if ever effected; and when done, it would be a thouſand to one if their liberties did not fall a ſacrifice to the victor.

We all think ourſelves happy under Great-Britain. We love, eſteem and reverence our mother-country, and adore our King, And could the choice of independency be offered the colonies, or ſubjection to Great-Britain upon any terms above abſolute ſlavery, I am convinced they would accept the latter. The miniſtry, in all future generations, may rely on it, that Britiſh America will never prove undutiful, till driven to it, as the laſt fatal reſort againſt miniſterial oppreſſion, which will make the wiſeſt mad, and the weakeſt ſtrong.

Theſe colonies are, and always have been, "entirely ſubject to the crown," in the legal ſenſe of the terms. But if any politician of "*tampering activity, of wrong-headed experience, miſled to be meddling," means, by "curbing the colonies in time," and by "being made entirely ſubject to the crown;" that this ſubjection ſhould be abſolute, and confined to the crown, he had better have ſuppreſſed his wiſhes. This never will nor can be done, with-

* Adminiſtration 34.

without making the coloniſts vaſſals of the crown. Subjects they are; their lands they hold of the crown, by common ſoccage, the freeſt feudal tenure, by which any hold their lands in England, or any where elſe. Would this gentleman carry us back to the ſtate of the Goths and Vandals, and revive all the military tenures and bondage which our forefathers could not bear? It may be worth nothing here, that few, if any inſtances can be given, where colonies have been diſpoſed to forſake or diſobey a tender mother: But hiſtory is full of examples, that armies ſtationed as guards over provinces, have ſeized the prey for their general, and given him a crown at the expence of his maſter. Are all ambitious generals dead? Will no more riſe up hereafter? The danger of a ſtanding army in remote provinces is much greater to the metropolis, than at home. Rome found the truth of this aſſertion, in her Sylla's, her Pompey's and Cæſars; but ſhe found it too late: Eighteen hundred years have rolled away ſince her ruin. A continuation of the ſame liberties that have been enjoyed by the coloniſts ſince the revolution, and the ſame moderation of government exerciſed towards them, will bind them in perpetual lawful and willing ſubjection, obedience and love to Great-Britain: She and her Colonies will both proſper and flouriſh: The monarchy will remain in ſound health and full vigour at that bleſſed period, when the proud arbitrary tyrants of the continent ſhall either unite in the deliverance of the human

man race, or reſign their crowns. Reſcued, human nature muſt and will be, from the general ſlavery that has ſo long triumphed over the ſpecies. Great-Britain has done much towards it: What a glory will it be to her to complete the work throughout the world!

The author of the Adminiſtration (page 54) " deſcribes" the defects of " provincial courts," by a " very deſcription," the firſt trait of which is, " The ignorance of the judges." Whether the deſcription, or the deſcription of the deſcription, are *verily* true, either as applied by Lord Hale, or the adminiſtrator, is left to the reader. I only aſk, who makes the judges in the provinces? I know of but two colonies, *viz.* Connecticut and Rhode-Iſland, where they are choſen by the people. In all other colonies, they are immediately appointed by the crown, or by his Majeſty's governor, with the advice of what the Adminiſtrator calls, the " governor's council of ſtate." And if they are in general ſuch ignorant creatures, as the Adminiſtrator deſcribes them, it is the misfortune, not the fault of the people, in the colonies. However, I believe, juſtice in general, is as well adminiſtered in the colonies, as it will be when every thing is devolved upon a court of admiralty, general or provincial. The following is very remakable: " In thoſe popular governments, and where every executive officer is under a dependence for a temporary, wretched, and I had almoſt ſaid arbitrary ſupport, on the deputies of the people *." Why

* Adminniſt. 59.

Why is the temporary ſupport found fault with? Would it be wiſe to give a governor a ſalary for a longer time than his political life? As this is quite as uncertain as his natural life, it has been granted annually. So every governor has the chance of one year's ſalary after he is dead. All the king's officers are not even in the charter provinces "dependent on the people" for ſupport. The judges of the admiralty, thoſe mirrors of juſtice, to be truſted, when none of the common law courts are, have all their commiſſions from home. Theſe, beſides other fees, have ſo much *per cent.* on all they condemn, be it right or wrong, and *this by act of parliament.* Yet ſo great is their integrity, that it never was ſuſpected that 50 *per cent.* if allowed, would have any influence on their decrees.

Cuſtom-houſe officers univerſally, and Naval officers, in all but two or three of the colonies, are, I believe appointed directly from home, or by inſtruction to the Governor: and take juſt what they pleaſe, for any reſtraint they are under by the provincial acts. But on whom ſhould a governor depend for his honourable ſupport, but the people? Is not the King ſed from the field, and from the labour of his people? Does not his Majeſty himſelf receive his aids from the free grant of his parliament? Do not all theſe originate in the houſe of commons? Did the houſe of Lords ever originate a grant? Do not our law books inform us that the Lords only aſſent or diſſent, but never ſo much as propoſe an amendment

mendment, on a money bill? The King can take no more than the parliament will give him, and yet ſome of his Governors have thought it an inſufferable hardſhip, that they could not take what they pleaſed. To take leave of the Adminiſtrator, there are in his book ſome good hints, but a multiplicity of miſtakes in fact, and errors in matters of right, which I have not time to mention particularly.

Ireland is a conquered kingdom; and yet have thought they received very hard meaſure in ſome of the prohibitions and reſtrictions of their trade. But were the colonies ever conquered? Have they not been ſubject and obedient, and loyal from their ſettlement? Were not the ſettlements made under the Britiſh laws and conſtitution? But if the colonies were all to be conſidered as conquered, they are entitled to the eſſential rights of men and citizens. And therefore admitting the right of prohibition, in its utmoſt extent and latitude; a right of taxation can never be inferred from that. It may be for the good of the whole, that a certain commodity ſhould be prohibited: but this power ſhould be exerciſed, with great *moderation* and impartiality, over dominions, which are not *repreſented*, in the national parliament. I had however rather ſee this carried with a high hand, to the utmoſt rigour, than have a tax of one ſhilling taken from me without my conſent. A people may be very happy, free and eaſy among themſelves, without a particular branch of foreign trade: I am ſure theſe colonies have the

natural means of every manufacture in *Europe*, and ſome that are out of their power to make or produce. It will ſcarcely be believed a hundred years hence, that the American manufactures could have been brought to ſuch perfection, as they will then probably be in, if the preſent meaſures are puſhed. One ſingle act of parliament, we find has ſet people a thinking, in ſix months, more than they had done in their whole lives before. It ſhould be remembered, that the moſt famous and flouriſhing manufactures, of wool, in *France*, were begun by *Lewis* XIV. not an hundred years ago; and they now bid fair to rival the *Engliſh*, in every port abroad. All the manufactures that Great-Britain could make, would be conſumed in America, and in her own plantations, if put on a right footing; for which a greater profit in return would be made, than ſhe will ever ſee again for woollen ſent to any part of Europe.

But though it be allowed, that liberty may be enjoyed in a comfortable meaſure, where *prohibitions* are laid on the trade of a kingdom or province; yet if *taxes* are laid on either, *without* conſent, they cannot be ſaid to be free. This barrier of liberty being once broken down, all is loſt. If a ſhilling in the pound may be taken from me againſt my will, why may not twenty ſhillings? and if ſo, why not my liberty or my life? Merchants were always *particularly* favoured by the common law—" All merchants, except enemies, may ſafely come into *England*, with their goods

and

and merchandize"—2 Inſt.— 28.—And why not as well to the *plantations?* Are they not entitled to all the Britiſh privileges? No, they muſt be confined in their imports and exports, to the good of the metropolis. Very well, we have ſubmitted to this. The act of navigation is a good act, ſo are all that exclude foreign manufactures from the plantations, and every honeſt man will readily ſubſcribe to them. Moreover, " Merchant ſtrangers, are alſo to come into the realm and depart at pleaſure; and they are to be friendly entertained." 2 Ri. C. 1. But to promote the manufactures of *England,* it is thought beſt to ſhut up the *colonies* in a manner from all the world. Right as to Europe: but for GOD's ſake, muſt we have no trade with other colonies? In ſome caſes the trade between *Britiſh* colony and colony is prohibited, as in wool, *&c.* Granting all this to be right, is it not enough? No, duties and taxes muſt be paid without any *conſent* or *repreſentation* in parliament. The common law, that ineſtimable privilege of a jury, is alſo taken away in all trials in the colonies, relating to the revenue, if the informers have a mind to go to the admiralty; as they have ever done, and ever will do, for very obvious reaſons. " It has ever been boaſted, ſays Mr. Dummer, in his defence of the charters, as the peculiar privilege of an Engliſhman, and the ſecurity of his property, to be tried by his country, and the laws of the land: whereas this admiralty method deprives him of both, as it puts his eſtate in the diſ-

poſal of a ſingle perſon, and makes the civil law the rule of judgment; which though it may not properly be called foreign, being the law of nations, yet it is what he has not conſented to himſelf, nor his repreſentative for him. A juriſdiction therefore ſo founded, ought not to extend beyond what *neceſſity* requires." —" If ſome bounds are not ſet to the juriſdiction of the admiralty, beyond which it ſhall not paſs, it may in time, like the element to which it ought to be confined, grow outrageous, and overflow the banks of all the other courts of juſtice." I believe it has never been doubted by one ſound, common lawyer of England, whether a court of admiralty ever anſwered many good ends; " the court of King's Bench has a power to reſtrain the court of admiralty in England; and the reaſons for ſuch reſtraining power are as ſtrong in New-England as in Great-Britain," and in ſome reſpects more ſo: yet Mr. Dummer mentions, a clamour that was raiſed at home by a judge of the admiralty for New-England, who complained " that the common law courts by granting prohibitions, weaken, and in a manner ſuppreſs the authority of this court, and all the good ends for which it was conſtituted." Thus we ſee, that the court of admiralty long ago diſcovered, no very friendly diſpoſition towards the common law courts here; and the records of the houſe of repreſentatives afford us a notable inſtance of one, who was expelled the houſe, of which he had been an unworthy member,

member, for the abuſive miſrepreſentations of the province, by him ſecretly made.

Trade and traffic, ſays lord Coke, " is the livelihood of a merchant, the life of the commonwealth, wherein the King and every ſubject hath intereſt; for the merchant is the good Bailiff of the realm, to export and vent the native commodities of the realm, and to import and bring in, the neceſſary commodities for the defence and benefit of the Realm —2 Inſt. 28. reading on Magna Charta, C. 15—And are not the merchants of Britiſh America entitled to a livelihood alſo? Are they not Britiſh ſubjects? Are not an infinity of commodities carried from hence for *the benefit of the realm*, for which in return come an infinity of *trifles*, which we could do without? Manufactures we muſt go into if our trade is cut off; our country is too cold to go naked in, and we ſhall ſoon be unable to make returns to England even for neceſſaries.

" When any law or cuſtom of parliament is broken, and the crown poſſeſſed of a precedent, how difficult a thing is it to reſtore the ſubject again to his former freedom and ſafety?" 2 Inſt. *on the confirmation of the great charter*—which provides in theſe words: " And for ſo much as divers people of our realm, are in fear, that the aids and taſks which they have given to us before time, towards our wars, and other buſineſs of their own grant and good will (howſoever they were made) might *turn to a bondage* to them and their heirs, becauſe they might be at another time

time found in the rolls, and likewiſe for the pieces taken throughout the realm by our miniſters: we have granted for us and our heirs, that we ſhall not draw ſuch aids, taſks nor prices *into a cuſtom*, for any thing that hath been done heretofore, be it by roll, or any other precedent that may be founden."

By the firſt chapter of this act, the great charter is declared to be the common law. I would aſk, whether we have not reaſon to fear, that the great aids, freely given by theſe provinces in the late war, will in like manner turn *to our bondage*, if they are to be kept on and *increaſed* during a *peace*, for the maintaining of a *ſtanding army* here?—If it is ſaid thoſe aids were given for *our own* immediate defence, and that England ſpent millions in the ſame cauſe, I anſwer, The names of his preſent Majeſty, and his royal Grandfather, will be ever dear to every loyal Britiſh American, for the protection they afforded us, and the ſalvation, under God, effected by their arms; but with regard to our fellow-ſubjects of Britain, we never were a whit behind hand with them. The New-England Colonies in particular, were not only ſettled without the leaſt expence to the mother country, but they have all along defended themſelves againſt the frequent incurſions of the muſt inhuman Savages, perhaps on the face of the whole earth, at *their own* coſt: Thoſe more than brutal *men*, ſpirited and directed by the moſt inveterate, as well as the moſt powerful enemy of Great Britain, have been conſtantly annoying our in-

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fant ſettlements for more than a century; ſpreading terror and deſolation, and ſometimes depopulating whole villages in a night: yet amidſt the fatigues of labour, and the horrors of war and bloodſhed, Heaven vouchſafed its ſmiles. Behold, an extenſive territory, ſettled, defended, and ſecured to his Majeſty, I repeat it, *without the leaſt expence to the mother country*, till within twenty years paſt!—When *Louiſbourg* was reduced to his late Majeſty, by the valour of his *New-England* ſubjects, the parliament, it muſt be owned, ſaw meet to refund *part* of the charges: And every one knows the importance of *Louiſbourgh*, in the conſultations of *Aix la Chapelle*; but for the loſs of our young men, the riches and ſtrength of a country, not indeed ſlain by the enemy, but overborne by the uncommon hardſhips of the ſiege, and their confinement in garriſon afterwards, there could be no recompence made.—In the late war, the *northern colonies* not only raiſed their full quota of men, but they went even beyond their ability; they are ſtill deeply in debt, notwithſtanding the parliamentary grants annually made them, *in part* of their expences, in the common, *national*, *cauſe*: Had it not been for thoſe grants, they had all been bankrupt long ago; while the *ſugar colonies* have borne little or no ſhare in it: They indeed ſent a company or two of *Negroes* and *Molattoes*, if this be worth mentioning, to the ſieges of Guadaloupe, Martinico and the Havanna: I do not recollect any thing elſe that they have done;

done; while the flower of *our* youth were annually preſſed by ten thouſands into the ſervice, and there treated but little better, as we have been told, than hewers of wood and drawers of water. Provincial acts for impreſſing were obtained, only by letters of requiſition from a ſecretary of ſtate to a Governor; requiring him to uſe his influence to raiſe men; and ſometimes, more than were aſked for or wanted, were preſſed, to give a figure to the Governor, and ſhew his influence; a remarkable inſtance of which might be mentioned. I would further obſerve, that Great-Britain was as immediately intereſted in the late war in America, as the colonies were. Was ſhe not threatened with an invaſion at the ſame time we were? Has ſhe not an immenſe trade to the colonies? The Britiſh writers ſay, more than half her profitable trade is to *America*: All the profits of our trade center there, and is little enough to pay for the goods we import. A prodigious revenue ariſes to the Crown on American exports to Great-Britain, which in general is not murmured at: No manufacture of Europe beſides Britiſh, can be lawfully brought here; and no honeſt man deſires they ever ſhould, if the laws were put in execution upon all. With regard to a few Dutch imports that have made ſuch a noiſe, the truth is, very little has been or could be run, before the apparatus of guardſhips; for the officers of ſome ports did their duty, while others may have made a monopoly of ſmuggling for a few of their friends, who probably paid them

them large contributions; for it has been obſerved, that a very ſmall office in the cuſtoms in America has raiſed a man a fortune ſooner than a government. The truth is, the acts of trade have been too often evaded; but by whom? Not by the American merchants in general, but by ſome former cuſtom-houſe officers, their friends and partizans. I name no man, not being about to turn informer: But it has been a notorious grievance, that when the King himſelf cannot diſpenſe with an act of parliament, there have been cuſtom-houſe officers who have practiſed it for years together, in favour of thoſe towards whom they were graciouſly diſpoſed.

But to return to the ſubject of taxation: I find that "the lords and commons cannot be charged with any thing for the defence of the realm, for the ſafe-guard of the ſea, *&c.* unleſs by their *will* in parliament."

Ld. Coke, on Magna Charta, Cap. 30.

"Impoſitions neither in time of war, or other, the greateſt neceſſity or occaſion that may be, much leſs in the time of peace, neither upon foreign or inland commodities, of what nature ſoever, be they never ſo ſuperfluous or unneceſſary, neither upon merchants, ſtrangers, nor denizens, may be laid by the King's abſolute power, without aſſent of parliament, be it never for ſo ſhort a time."

Viner Prerogative of the King.

Ea. 1. cites 2 Molloy. 320 Cap. 12. ſec. 1.

"In the reign of Edward III. the Black Prince of Wales having *Aquitain* granted to

 him,

him, did lay an impoſition of fuage or focage *a foco*, upon his ſubjects of that dukedom, *viz.* a ſhilling for every fire, called hearth ſilver, which was of ſo great diſcontentment and odious to them, that it made them revolt. And nothing ſince this time has been impoſed by pretext of any prerogative, upon merchandizes, imported into or exported out of this realm, until Queen Mary's time." 2 Inſt. 61.

Nor has any thing of that kind taken place ſince the revolution. King Charles I. his ſhipmoney every one has heard of.

It may be ſaid that theſe authorities will not ſerve the coloniſts, becauſe the duties laid on them are by parliament. I acknowledge the difference of fact; but cannot ſee the great difference in equity, while the coloniſts are not repreſented in the houſe of commons: And therefore with all humble deference I apprehend, that till the coloniſts are ſo repreſented, the ſpirit of all theſe authorities will argue ſtrongly in their favour. When the parliament ſhall think fit to allow the coloniſts a repreſentation in the houſe of commons, the equity of their taxing the colonies will be as clear as their power is at preſent of doing it without, if they pleaſe. When Mr. Dummer wrote his defence of the charters, there was a talk of taking them away, by act of parliament. This defence is dedicated to the right honourable the Lord Carteret, then one of his Majeſty's principal ſecretaries of ſtate, ſince Earl of Granville. His third propoſition is, that " it is not for the intereſt of the crown

to

to reſume the charters, if forfeited." This he proves; as alſo that it would be more for the intereſt of Great-Britain to enlarge, rather than diminiſh, the privilege of all the coloniſts. His laſt propoſition is, that it "ſeems inconſiſtent with juſtice to diſfranchiſe the charter colonies by an act of parliament."

"It ſeems therefore, ſays he, a ſeverity without a precedent, that a people, who have the misfortune of being a thouſand leagues diſtant from their ſovereign, a misfortune great enough in itſelf, ſhould, unſummoned, unheard, in one day, be deprived of their valuable privileges, which they and their fathers have enjoyed for near a hundred years." It is true, as he obſerves, "the legiſlative power is abſolute and unaccountable, and King, lords and commons, may do what they pleaſe; but the queſtion here is not about *power*, but *right*" (or rather equity) "and ſhall not the ſupreme judicature of all the nation do right?" "One may ſay, that what the parliament cannot do juſtly, they cannot do at all. *In maximis minima eſt licentia.* The higher the power is, the greater caution is to be uſed in the execution of it; becauſe the ſufferer is helpleſs and without reſort." I never heard that this reaſoning gave any offence. Why ſhould it? Is it not exactly agreeable to the deciſions of parliament and the determinations of the higheſt executive courts? (See the Appendix.) But if it was thought hard that charter privileges ſhould be taken away by act of parliament, is it not much harder to be in part, or

in whole, disfranchiſed of rights, that have been always thought inherent to a Britiſh ſubject, namely, to be free from all taxes, but what he conſents to in perſon, or by his repreſentative? This right, if it could be traced no higher than Magna Charta, is part of the common law, part of a Britiſh ſubjects birthright, and as inherent and perpetual, as the duty of allegiance; both which have been brought to theſe colonies, and have been hitherto held ſacred and inviolable, and I hope and truſt ever will. It is humbly conceived, that the Britiſh coloniſts (except only the conquered, if any) are, by Magna Charta, as well entitled to have a voice in their taxes, as the ſubjects within the realm. Are we not as really deprived of that right, by the parliament aſſeſſing us before we are repreſented in the houſe of commons, as if the King ſhould do it by his prerogative? Can it be ſaid with any colour of truth or juſtice, that we are repreſented in parliament?

As to the coloniſts being repreſented by the provincial agents, I know of no power ever given them, but to appear before his Majeſty, and his miniſtry. Sometimes they have been directed to petition the parliament: But they none of them have, and I hope never will have, a power given them, by the coloniſt, to act as repreſentatives, and to conſent to taxes; and if they ſhould make any conceſſions to the miniſtry, eſpecially without order, the provinces could not by that be conſidered as repreſented in parliament.

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Hibernia habet Parliamenta & faciunt leges et noſtra ſtatuta non ligant eos, quia non mittant milites ad Parliamentum, ſed perſonæ eorum ſunt ſubjecti Regis, ſicut inhabitantes Calinæ Gaſconiæ & Guiennæ.

12 Rep. 111. cites R. 3. 12—

" Ireland hath parliaments, and make laws, and our ſtatutes do not bind them, *becauſe they ſend no knights to parliament*; but their perſons are ſubjects of the King, as the inhabitants of Guiene, Gaſcony, &c."

Yet, if eſpecially named, or by general words included as within any of the King's dominions, Ireland, ſays Ld. Coke, might be bound. 4 Inſt. 351.

From all which it ſeems plain, that the reaſon why Ireland and the plantations are not bound, unleſs named by an act of parliament, is, becauſe they are *not repreſented* in the Britiſh parliament. Yet, in ſpecial caſes, the Britiſh parliament has an undoubted right, as well as power, to bind both by their acts. But whether this can be extended to an indefinite taxation of both, is the great queſtion. I conceive the ſpirit of the Britiſh conſtitution muſt make an exception of all taxes, until it is thought fit to unite a dominion to the realm. Such taxation muſt be conſidered either as uniting the dominions to the realm, or disfranchiſing them. If they are united, they will be intitled to a repreſentation, as well as Wales; if they are ſo taxed without a union, or repreſentation, they are ſo far disfranchiſed.

I do not find any thing that looks like a duty on the colonies before the 25th of C. II. c. 7. impoſing a duty on innumerated commodities. The liberty of the ſubject was little attended to in that reign. If the nation could not fully aſſert their rights till the revolution, the colonies could not expect to be heard. I look upon this act rather as a precedent of power, than of right and equity; if it is ſuch, it will not affect my argument. The act appointing a tax on all mariners, of a certain ſum *per* month, to be deducted out of their wages, is not to be compared with this. Mariners are not inhabitants of any part of the dominions: the ſea is their element, till they are decripit, and then the hoſpital is open for all marines who are Britiſh ſubjects without exception. The general poſt-office eſtabliſhed through the dominions, is for the convenience of trade and commerce: it is not laying any burden upon it; for beſides that it is upon the whole cheaper to correſpond in this way than any other, every one is at liberty to ſend his own letters by a friend. The act of the 6th of his late Majeſty, though it impoſes a *duty* in terms, has been ſaid to be deſigned for a *prohibition*; which is probable from the ſums impoſed; and it is pity it had not been ſo expreſſed, as there is not the leaſt doubt of the juſt and equitable right of the parliament to lay prohibitions through the dominions, when they think the good of the whole requires it. But as has been ſaid, there is an infinite difference between that and the exer-

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cise of unlimited power of 'taxation, over the dominions, without allowing them a repreſentation :'—It is ſaid that the duties impoſed by the new act will amount to a prohibition: Time only can aſcertain this. The utility of this act is ſo fully examined in the appendix, that I ſhall add nothing on that head here. It may be ſaid that the colonies ought to bear their proportion of the national burdens: It is juſt they ſhould, and I think I have proved they have always done it freely and cheerfully, and I know no reaſon to doubt but they ever will.

Sometimes we have been conſidered only as the corporations in England: And it may be urged that it is no harder upon us to be taxed by parliament for the general cauſe than for them, who beſides are at the expence of their corporate ſubordinate government*. I anſwer, 1. Thoſe corporations are *repreſented* in parliament. 2. The colonies are and have been at a great expence in raiſing men, building forts, and ſupporting the King's civil government here. Now I read of no governors and other officers of his Majeſty's nomination, that the city of London taxes its inhabitants to ſupport; I know of no forts and garriſons that the city of London has lately built at its own expence, or of any annual levies that they have raiſed for the King's ſervice and the common cauſe. Theſe are things very fitting and proper to be done by a ſubordinate dominion, and it is their duty to do all they are able; but it ſeems

* See Adminiſtration of the Colonies.

ſeems but equal they ſhould be allowed to aſſeſs the charges of it themſelves. The rules of equity and the principles of the conſtitution ſeem to require this. Thoſe who judge of the reciprocal rights that ſubſiſt between a ſupreme and ſubordinate ſtate of dominion, by no higher rules than are applied to a corporation of button-makers, will never have a very comprehenſive view of them. Yet, ſorry am I to ſay it, many elaborate writers on the *adminiſtration of the colonies*, ſeem to me never to riſe higher in their notions, than what might be expected from his ſecretary to one of the *quorum*. If I ſhould be ranked among this number, I ſhall have this conſolation, that I have fallen into what is called very good company, and among ſome who have ſeen very high life below ſtairs. I agree with the Adminiſtrator, that of whatever revenues raiſed in the colonies, if they muſt be raiſed without our conſent, "*the firſt and ſpecial appropriation of them ought to be to the paying the Governors, and all the other Crown officers;*" for it would be hard for the Coloniſts to be obliged to pay them after this. It was on this principle that at the laſt aſſembly of this province, I moved to ſtop every grant to the officers of the Crown; more eſpecially as I know ſome who have built very much upon the fine ſalaries they ſhall receive from the plantation branch of the reveuue. Nor can I think it "injuſtice to the frame of human nature*," to ſuppoſe, if I did not know it, that with ſimilar

* Adm. p. 57.

milar views ſeveral officers of the Crown in ſome of the colonies have been puſhing for ſuch an act for many years. They have obtained their wiſh, and much good it will do them: but I would not give much for all that will center neat in the exchequer, after deducting the coſts attending the execution of it, and the appropriations to the ſeveral officers propoſed by the Adminiſtrator. What will be the unavoidable conſequence of all this, ſuppoſe another war ſhould happen, and it ſhould be neceſſary to employ as many provincials in America as in the laſt? Would it be poſſible for the colonies, after being burthened in their trade, perhaps after it is ruined, to raiſe men? Is it probable that they would have ſpirit enough to exert themſelves? If it is ſaid the French will never try for America, or if they ſhould, regular troops are only to be employed. I grant our regular troops are the beſt in the world, and that the experience of the preſent officers ſhews that they are capable of every ſpecies of American ſervice; yet we ſhould guard againſt the worſt. If another trial for Canada ſhould take place, which from the known temper of France, we may judge ſhe will bring on the firſt fair opportunity, it might require 30 or 40,000 regulars to ſecure his Majeſty's juſt rights. If it ſhould be ſaid, that other American duties muſt then be levied, beſides the impoſſibility of our being able to pay them, the danger recurs of a large ſtanding army ſo remote from home. Whereas a good provincial militia, with ſuch

occaſional ſuccours from the mother country, as exigencies may require, never was, and never will be attended with hazard. The experience of paſt times will ſhew, that an army of 20 or 30,000 veterans, half 3000 miles from *Rome*, were very apt to proclaim *Cæſars*. The firſt of the name, the aſſaſſin of his country owed his falſe glory, to ſtealing the affections of an army from a commonwealth. I hope theſe hints will not be taken amiſs; they ſeem to occur from the nature of the ſubject I am upon: they are delivered in pure affection to my King and country, and amount to no reflection on any man. The beſt army, and the beſt men, we may hereafter have, may be led into temptation; all I think, is, that a prevention of evil is much eaſier than a deliverance from it.

The ſum of my argument is, That civil government is of God: that the adminiſtrators of it were originally the whole people: that they might have devolved it on whom they pleaſed: that this devolution is fiduciary, for the good of the whole: that by the Britiſh conſtitution, this devolution is on the King, lords and commons, the ſupreme, ſacred and uncontroulable legiſlative power, not only in the realm, but through the dominions: that by the abdication, the original compact was broken to pieces: that by the revolution it was renewed, and more firmly eſtabliſhed, and the rights and liberties of the ſubject in all parts of the dominions, more fully explained and confirmed: that in conſequence of this eſta-

eſtabliſhment and the acts of ſucceſſion and union, his Majeſty GEORGE III. is rightful king and ſovereign, and with his parliament, the ſupreme legiſlative of Great-Britain, France and Ireland, and the dominions thereunto belonging: that this conſtitution is the moſt free one, and by far the beſt, now exiſting on earth: that by this conſtitution, every man in the dominions is a free man: that no parts of his Majeſty's dominions can be taxed without their conſent: that every part has a right to be repreſented in the ſupreme or ſome ſubordinate legiſlature, that the refuſal of this, would ſeem to be a contradiction in practice to the theory of the conſtitution: that the colonies are ſubordinate dominions, and are now in ſuch a ſtate, as to make it beſt for the good of the whole, that they ſhould not only be continued in the enjoyment of ſubordinate legiſlation, but be alſo repreſented in ſome proportion to their number and eſtates in the grand legiſlation of the nation: that this would firmly unite all parts of the Britiſh empire, in the greateſt peace and proſperity; and render it invulnerable and perpetual.

APPENDIX.

The City of *Boſton*, at their Annual Meeting in *May* 1764, made Choice of *Richard Dana*, *Joſeph Green*, *Nathaniel Bethune*, *John Ruddock*, Eſqrs; and Mr. *Samuel Adams*, to prepare INSTRUCTIONS for their REPRESENTATIVES.

The following Inſtructions were reported by ſaid Committee, and unanimouſly voted.

To *Royal Tyler**, *James Otis*, *Thomas Cuſhing*, and *Oxenbridge Thacher*, Eſqrs.

GENTLEMEN,

YOUR being choſen by the freeholders and inhabitants of the town of *Boſton*, to repreſent them in the General Aſſembly the enſuing year, affords you the ſtrongeſt teſtimony of that confidence (which they place in your integrity and capacity. By this choice they have

* Now of the honourable board; in whoſe room was returned Mr. *Thomas Grey*, Merchant.

have delegated to you the power of acting in their public concerns in general, as your own Prudence ſhall direct you ; always reſerving to themſelves the conſtitutional right of expreſſing their mind, and giving you ſuch inſtruction upon particular matters, as they at any time ſhall judge proper.

We therefore, your conſtituents, take this opportunity to declare our juſt expectations from you,

That you will conſtantly uſe your power and influence in maintaining the invaluable rights and privileges of the province, of which this town is ſo great a part: As well thoſe rights which are derived to us by the royal charter, as thoſe which being prior to an independent on it, we hold eſſentially as free-born ſubjects of Great-Britain ;

That you will endeavour, as far as you ſhall be able, to preſerve that independence in the houſe of repreſentatives, which characteriſes a free people ; and the want of which may in a great meaſure prevent the happy effects of a free government: Cultivating as you ſhall have opportunity, that harmony and union there, which is ever deſirable to good men, when founded on principles of virtue and publick ſpirit ; and guarding againſt any undue weight which may tend to diſadjuſt that critical balance upon which our happy conſtitution, and the bleſſings of it do depend. And for this purpoſe, we particularly recommend it to you to uſe your endeavours to have a law paſſed, whereby the ſeats of ſuch gentlemen

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as ſhall accept of poſts of profit from the Crown, or the Governor, while they are members of the houſe, ſhall be vacated, agreeable to an act of the Britiſh parliament, till their conſtituents ſhall have the opportunity of re-electing them, if they pleaſe, or of returning others in their room.

Being members of the legiſlative body, you will have a ſpecial regard to the morals of this people, which are the baſis of public happineſs; and endeavour to have ſuch laws made, if any are ſtill wanting, as ſhall be beſt adapted to ſecure them: And we particularly deſire you carefully to look into the laws of exciſe, that if the virtue of the people is endangered by the multiplicity of oaths therein enjoined, or their trade and buſineſs is unreaſonably impeded or embarraſſed thereby, the grievance may be redreſſed.

As the preſervation of morals, as well as property and right, ſo much depends upon the impartial diſtribution of juſtice, agreeable to good and wholeſome law: And as the judges of the land do depend upon the free grants of the general aſſembly for ſupport; it is incumbent upon you at all times to give your voice for their honourable maintenance, ſo long as they, having in their minds an indifference to all other affairs, ſhall devote themſelves wholly to the duties of their own department, and the farther ſtudy of the law, by which their cuſtoms, precedents, proceedings and determinations are adjuſted and limited.

You will remember that this province hath been

been at a very great expence in carrying on the war; and that it ſtill lies under a very grievous burden of debt: You will therefore uſe your utmoſt endeavour to promote public frugality as one means to leſſen the public debt.

You will join in any propoſals which may be made for the better cultivating the lands, and improving the huſbandry of the province: and as you repreſent a town which lives by its trade, we expect in a very particular manner, that you make it the object of your attention, to ſupport our commerce in all its juſt rights, to vindicate it from all unreaſonable impoſitions, and promote its proſperity.——Our trade has for a long time laboured under great diſcouragements; and it is with the deepeſt concern that we ſee ſuch farther difficulties coming upon it, as will reduce it to the loweſt ebb, if not totally obſtruct and ruin it. We cannot help expreſſing our ſurprize that when ſo early notice was given by the agent, of the intentions of the miniſtry, to burthen us with new taxes, ſo little regard was had to this moſt intereſting matter, that the court was not even called together to conſult about it till the latter end of the year; the conſequence of which was, that inſtructions could not be ſent to the agent, though ſollicited by him, till the evil had got beyond an eaſy remedy.

There is now no room for farther delay: We therefore expect that you will uſe your earlieſt endeavours in the General Aſſembly, that ſuch methods may be taken as will effectually

tually prevent theſe proceedings againſt us. By a proper repreſentation, we apprehend it may eaſily be made to appear that ſuch ſeverities will prove detrimental to Great-Britain itſelf; upon which account we have reaſon to hope that an application, even for a repeal of the act, ſhould it be already paſſed, will be ſucceſsful. It is the trade of the colonies that renders them beneficial to the mother country: Our trade, as it is now, and always has been conducted, centers in Great-Britain, and in return for her manufactures, affords her more ready caſh, beyond any compariſon, than can poſſibly be expected by the moſt ſanguine promoters of theſe extraordinary methods. We are in ſhort ultimately yielding large ſupplies to the revenues of the mother country, while we are labouring for a very moderate ſubſiſtence for ourſelves. But if our trade is to be curtailed in its moſt profitable branches, and burdens beyond all poſſible bearing laid upon that which is ſuffered to remain, we ſhall be ſo far from being able to take off the manufactures of Great-Britain, that it will be ſcarce poſſible for us to earn our bread.—

But what ſtill heightens our apprehenſions is, that theſe unexpected proceedings may be preparatory to new taxations upon us: For if our trade may be taxed, why not our lands? Why not the produce of our lands, and every thing we poſſeſs or make uſe of? This we apprehend annihilates our charter right to govern and tax ourſelves—It ſtrikes at our Britiſh privileges, which as we have never forfeited

feited them, we hold in common with our fellow-ſubjects who are natives of Britain: if taxes are laid upon us in any ſhape without our having a legal repreſentation where they are laid, are we not reduced from the character of free ſubjects to the miſerable ſtate of tributary ſlaves?

We therefore earneſtly recommend it to you to uſe your utmoſt endeavours, to obtain in the general aſſembly, all neceſſary inſtruction and advice to our agent at this moſt critical juncture; that while he is ſetting forth the unſhaken loyalty of this province and this town—its unrivaled exertion in ſupporting his Majeſty's government and rights in this part of his dominions—its acknowledged dependence upon and ſubordination to Great-Britain; and the ready ſubmiſſion of its merchants to all juſt and neceſſary regulations of trade; he may be able in the moſt humble and preſſing manner to remonſtrate for us all thoſe rights and privileges which juſtly belong to us either by charter or birth.

As his Majeſty's other northern American colonies are embarked with us in this moſt important bottom, we farther deſire you to uſe your endeavours, that their weight may be added to that of this province: that by the united application of all who are aggrieved, All may happily obtain redreſs.

Subſtance of a Memorial preſented the Houſe, in purſuance of the above Inſtructions; and by them voted to be tranſmitted to JASPER MAUDUIT, *Eſq; Agent for this Province*†; *to be improved as he may judge proper.*

THE public tranſactions from William I. to the revolution, may be conſidered as one continued ſtruggle between the prince and the people, all tending to that happy eſtabliſhment, which Great-Britain has ſince enjoyed.

The abſolute rights of Engliſhmen, as frequently declared in parliament, from Magna Charta to this time, are the rights of *perſonal ſecurity*, *perſonal liberty*, and of *private property*.

The allegiance of Britiſh ſubjects being natural, perpetual and inſeparable from their perſons, let them be in what country they may; their rights are alſo natural, inherent and perpetual.

By the laws of nature and of nations, the voice of univerſal reaſon, and of God, when a nation takes poſſeſſion of a deſert, uncultivated and uninhabited country, or purchaſes of Savages, as was the caſe with far the greateſt part of the Britiſh ſettlements; the coloniſts tranſplanting themſelves, and their poſterity, though ſeparated from the principal eſtabliſhment or mother country, naturally become part of the ſtate with its ancient poſſeſſions, and

† Only as a State drawn up by one of the Houſe.

and intitled to all the eſſential rights of the mother country. This is not only confirmed by the practice of the antients, but by the moderns ever ſince the diſcovery of America. Frenchmen, Spaniards, and Portugueſe are no greater ſlaves abroad than at home; and hitherto Britons have been as free on one ſide of the Atlantic as on the other: And its humbly hoped that his Majeſty and the Parliament, will in their wiſdom be graciouſly pleaſed to continue the coloniſts in this happy ſtate.

It is preſumed, that upon theſe principles, the coloniſts have been by their ſeveral charters declared natural ſubjects, and entruſted with the power of making *their own local laws*, not repugnant to the laws of England, and with *the power of taxing themſelves*.

This legiſlative power is ſubject by the ſame charter to the King's negative, as in Ireland. This effectually ſecures the *dependence* of the colonies on Great-Britain.—By the *thirteenth* of *George* the *Second*, *chapter the ninth*, even foreigners having lived ſeven years in any of the colonies, are deemed natives on taking the oaths of allegiance, *&c.* and are declared by the ſaid act to be his Majeſty's natural born ſubjects of the kingdom of Great-Britain, to all intents, conſtructions and purpoſes, as if any of them had been born within the kingdom. The reaſons given for this naturalization in the preamble of the act are, " that the increaſe of the people is the means of advancing the wealth and ſtrength of any nation or country; and that many foreigners and ſtran-

gers, from the lenity of our government, the purity of our religion, the benefit of our laws, the advantages of our trade, and the ſecurity of our *property*, might be induced to come and ſettle in ſome of his Majeſty's colonies in America; if they were partakers of the advantages and privileges, which the natural born ſubjects there enjoy†."

The ſeveral acts of parliament and charters declaratory of the rights and liberties of the colonies, are but in affirmance of the common law, and law of nature in this point. There are, ſays my Lord Coke, regularly three incidents to ſubjects born. (1) Parents under the actual obedience of the King. (2.) That the place of his birth be within the King's dominions. (3) The time of his birth to be chiefly conſidered: For he cannot be a ſubject born of one kingdom, that was born under the allegiance of the King of another kingdom; albeit afterwards the kingdom deſcends to the King of the other kingdom. See Calvin's caſe, and the ſeveral acts of parliament and deciſions on naturalization, from Edward the Third to this day. The common law is received and practiſed upon here, and in the reſt of the colonies; and all antient and modern acts of parliament that can be conſidered as part of, or in amendment of the common law, together with all ſuch acts of parliament as expreſly name the plantations; ſo that the power of the Britiſh parliament is held as ſacred and as uncontroulable in the colonies

† 13 G. 2 C. 7.

colonies as in England. The queſtion is not upon the general power or right of the parliament, but whether it is not circumſcribed within ſome equitable and reaſonable bounds? It is hoped it will not be conſidered as a new doctrine, that even the authority of the parliament of *Great-Britain* is circumſcribed by certain bounds, which if exceeded, their acts become thoſe of meer *power* without *right*, and conſequently void. The judges of England have declared in favour of theſe ſentiments, when they expreſly declare, that *acts of parliament againſt natural equity are void.* That *acts againſt the fundamental principles of the Britiſh conſtitution are void*†. This doctrine

† " A very important queſtion here preſents itſelf. It eſſentially belongs to the ſociety to make laws both in relation to the manner in which it deſires to be governed, and to the conduct of the citizens: this is called the *Legiſlative Power.* The nation may entruſt the exerciſe of it to the Prince, or to an aſſembly; or to the aſſembly and the Prince jointly; who have then a right of making new, and abrogating old laws. It is here demanded, whether, if their power extends ſo far as to the fundamental laws, they may change the conſtitution of the ſtate? The principles we have laid down lead us to decide this point with certainty, that the authority of theſe legiſlators does not extend ſo far, and that they ought to conſider, the fundamental laws as ſacred, if the nation has not in very expreſs terms given them the power to change them. For the conſtitution of the ſtate ought to be fixed; and ſince that was firſt eſtabliſhed by the nation, which afterwards truſted certain perſons with the legiſlative power, the fundamental laws are excepted from their commiſſion. It appears that the ſociety had only reſolved to make proviſion for the ſtate's being always furniſhed with laws ſuited to particular conjunctures, and gave the legiſlature for that purpoſe, the power of abrogating the ancient civil and political laws, that were not fundamental, and of making new ones: but nothing leads us to think that it was willing to ſubmit the conſtitution itſelf to their pleaſure. When

trine is agreeable to the law of nature and nations, and to the divine dictates of natural and revealed religion. It is contrary to reason that the supreme power should have right to alter the constitution. This would imply, that those who are intrusted with Sovereignty by the

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When a nation takes possession of a distant country, and settles a colony there, that country, though separated from the principal establishment, or mother country, naturally becomes a part of the state, equally with its antient possessions. Whenever the political laws, or treaties, make no distinction between them, every thing said of the territory of a nation, ought also to extend to its colonies." D' Vattel.

" An act of parliament made against natural equity, as to make a man judge in his own cause, would be void: for *jura naturæ sunt immutabilia*, Hob. 87. Trin. 12. Jac. Day v. Savage S. C. and P. cited Arg. 10. Mod. 115. Hill. 11 Ann. C. B. in the case of Thornby and Fleetwood, " but says, that this must be a clear case, and judges will strain hard rather than interpret an act void, ab initio." *This is granted, but still their authority is not boundless, if subject to the controul of the judges in any case.*

" Holt, Chief justice, thought what Lord Coke says in Doctor Bonham's case a very reasonable and true saying, that if an act of parliament should ordain that the same person should be both party and judge in his own cause, it would be a void act of parliament, and an act of parliament can do no wrong, though it may do several things that look pretty odd: for it may discharge one from the allegiance he lives under, and restore to the state of nature; but it cannot make one that lives under a government both judge and party, *per* Holt. C. J. 12 Mod. 687, 688. Hill. 13. W. 3. B. R. in the case of the city of London v. Wood——It appears in our books, that in several cases the common law shall controul acts of parliament, and sometimes adjudge them to be utterly void; for when an act of parliament is against common *right* and *reason*, or repugnant or impossible to be performed, the common law shall controul it, and adjudge it to be void, and therefore 8 E. 3. 30. Thomas Tregor's case upon the statute of W. 2. Cap. 38. and Art. Sup. Chart. 9. Herle said that sometimes statutes made contrary to law and right, which the makers of them perceiving will not put them in execution, 8 Rep. 118 Hill. 7. J. Dr. Bonham's case.

the people, have a right to do as they pleaſe. In other words, that thoſe who are inveſted with power to protect the people, and ſupport their rights and liberties have a right to make ſlaves of them. This is not very remote from a flat contradiction. Should the parliament of Great-Britain follow the example of ſome other foreign ſtates†, and vote the King abſolute and deſpotic; would ſuch an act of parliament make him ſo? Would any miniſter in his ſenſes adviſe a Prince to accept of ſuch an offer of power? It would be unſafe to accept of ſuch a donation, becauſe the parliament or donors would grant more than was ever in their power lawfully to give. The law of nature never inveſted them with a power of ſurrendering their own liberty; and the people certainly never intruſted any body of men with a power to ſurrender theirs in exchange for ſlavery‡.

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† Sweden, Denmark, France, &c.

‡ "But if the whole ſtate be conquered, if the nation be ſubdued, in what manner can the victor treat it without tranſgreſſing the bounds of juſtice? What are his rights over the conqueſt? Some have dared to advance this monſtrous principle, that the conqueror is abſolute maſter of his conqueſt; that he may diſpoſe of it as his property, treat it as he pleaſes, according to the common expreſſion of *treating a ſtate as a conquered country*; and hence they derive one of the ſources of deſpotic government: but enough of thoſe that reduce men to the ſtate of transferable goods, or uſe them like beaſts of burthen, who deliver them up as the property or patrimony of another man. Let us argue on principles countenanced by reaſon and becoming humanity. The whole right of the conqueror proceeds from the juſt defence of himſelf, which contains the ſupport and pro-

It is now near there hundred years ſince the continent of North-America was firſt diſcovered, and that by Britiſh ſubjects†. Ten generations have paſſed away through infinite toils and bloody conflicts in ſettling this country. None of thoſe ever dreamed but that they were intitled, at leaſt, to equal privileges with thoſe of the ſame rank born within the realm.

Britiſh America has been hitherto diſtinguiſhed from the ſlaviſh colonies round about it,

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proſecution of his rights. Thus when he has totally ſubdued a nation with whom he had been at war, he may without diſpute cauſe juſtice to be done him, with regard to what gave riſe to the war, and require payment for the expence and damage he has ſuſtained; he may according to the exigency of the caſe, impoſe penalties on it as an example, he may, ſhould prudence ſo dictate, diſable it from undertaking any pernicious deſigns for the future. But in ſecuring all theſe views the mildeſt means are to be preferred. We are always to remember, that the law of nature permits no injury to be done to an enemy, unleſs in taking meaſures neceſſary for a juſt defence, and a reaſonable ſecurity. Some princes have only impoſed a tribute on it; others have been ſatisfied of ſtripping it of ſome privileges, diſmembering a province, or keeping it in awe by fortreſſes; others as their quarrel was only with the ſovereign in perſon, have left a nation in the full enjoyment of all its rights, only ſetting a ſovereign over it. But if the conqeror thinks proper to retain the ſovereignty of the vanquiſhed ſtate, and has ſuch a right; the manner in which he is to treat the ſtate ſtill flows from the ſame principles. If the ſovereign be only the juſt object of his complaint, reaſon declares that by his conqueſt he acquires only ſuch rights as actually belonged to the dethroned ſovereign, and on the ſubmiſſion of his people, he is to govern it according to the laws of the ſtate. If the people do not voluntarily ſubmit, the ſtate of war ſubſiſts."

" When a ſovereign as pretending to have the abſolute diſpoſal of a people whom he has conquered, is for inſlaving them, he cauſes the ſtate of war to ſubſiſt between this people and him." Mr. D' Vatel, B. 3. C. 10. ſec. 201.

† The Cabots diſcovered the Continent before the Spaniards.

it, as the fortunate Britons have been from moſt of their neighbours on the continent of Europe. It is for the intereſt of Great-Britain that her colonies ſhould be ever thus diſtinguiſhed. Every man muſt wilfully blind himſelf that don't ſee the immenſe value of our acquiſitions in the late war; and that though we did not retain all at the concluſion of the peace that we obtained by the ſword; yet our gracious Sovereign, at the ſame time that he has given a divine leſſon of equitable moderation to the princes of the earth, has retained ſufficient to make the Britiſh arms the dread of the univerſe, and his name dear to all poſterity.

To the freedom of the Britiſh conſtitution, and to their increaſe of commerce, it is owing that our colonies have flouriſhed without diminiſhing the inhabitants of the mother country; quite contrary to the effects of plantations made by moſt other nations, which have ſuffered at home, in order to aggrandize themſelves abroad. This is remarkably the caſe with Spain. The ſubjects of a free and happy conſtitution of government, have a thouſand advantages to colonize above thoſe who live under deſpotic princes. We ſee how the Britiſh colonies on the continent, have out-grown thoſe of the French, notwithſtanding they have ever engaged the Savages to keep us back. Their advantages over us in the Weſt-Indies, are among other cauſes perhaps, partly owing to theſe, 1. A capital neglect in former reigns, in ſuffering them to have a firm poſſeſſion of ſo many valuable iſlands, that we had a better title to than they. 2. The French unable to puſh their

ſettlements effectually on the continent, have bent their views to the iſlands, and poured vaſt numbers into them. 3. The climate and buſineſs of theſe iſlands is by nature much better adapted to Frenchmen and to Negroes, than to Britons. 4. The labour of ſlaves, black or white, will be ever cheaper than that of freemen, becauſe that of the individuals among the former, will never be worth ſo much as with the latter; but this difference is more than ſupplied; by numbers under the advantages abovementioned. The French will ever be able to ſell their Weſt-India produce cheaper than our own iſlanders: and yet while our own iſlanders can have ſuch a price for theirs, as to grow much richer than the French, or any other of the King's ſubjects in America, as is the caſe, and what the northern colonies take from the French, and other foreign iſlands, centers finally in returns to Great-Britain for her manufactures, to an immenſe value, and with a vaſt profit to her: it is contrary to the firſt principles of policy to clog ſuch a trade with duties, much more to prohibit it to the riſque if not certain deſtruction of the fiſhery. It is allowed by the moſt accurate Britiſh writers on commerce, Mr. Poſtlethwait in particular, who ſeems to favour the cauſe of the ſugar iſlands, that one half of the immenſe commerce of Great-Britain is with her colonies. It is very certain that without the fiſhery ſeven-eights of this commerce would ceaſe. The fiſhery is the center of motion, upon which the wheel of all the Britiſh commerce in America turns. Without the American trade, would Britain, as a commercial

ſtate,

ſtate, make any great figure at this day in Europe? Her trade in woollen and other manufactures, is ſaid to be leſſening in all parts of the world, but America, where it is increaſing, and capable of infinite increaſe, from a concurrence of every circumſtance in its favour. Here is an extenſive territory of different climates, which in time will conſume, and be able to pay for as many manufactures as Great-Britain and Ireland can make, if true maxims are purſued. The French, for reaſons already mentioned, can underwork, and conſequently underſell the Engliſh manufactures of Great-Britain in every market in Europe. But they can ſend none of their manufactures here: and it is the wiſh of every honeſt Britiſh American that they never may; it is beſt they never ſhould; we can do better without the manufactures of Europe, ſave thoſe of Great-Britain, than with them: But without the French Weſt-India produce we cannot; without it our fiſhery muſt infallibly be ruined. When that is gone, our own iſlands will very poorly ſubſiſt. No Britiſh manufactures can be paid for by the coloniſts. What will follow? One of theſe two things, both of which it is the intereſt of Great-Britain to prevent. 1. The northern coloniſts muſt be content to go naked, and turn Savages; or, 2. Become manufacturers of linen and woollen, to clothe themſelves; which, if they cannot carry to the perfection of Europe, will be very deſtructive to the intereſts of Great-Britain. The computation has been made, and that within bounds, and it can be demonſtrated, that if North-America is only

driven to the fatal neceſſity of manufacturing a ſuit of the moſt ordinary linen or woollen for each inhabitant annually, which may be ſoon done, when neceſſity, the mother of invention, ſhall operate, Great-Britain and Ireland will loſe two millions *per annum*, beſides a diminution of the revenue to nearly the ſame amount. This may appear paradoxical, but a few years experience of the execution of the ſugar act, will ſufficiently convince the parliament not only of the inutility, but deſtructive tendency of it, while calculations may be little attended to. That the trade with the colonies has been of ſurpriſing advantage to Great-Britain, notwithſtanding the want of a good regulation is paſt all doubt. Great-Britain is well known to have increaſed prodigiouſly both in numbers and in wealth ſince ſhe began to colonize. To the growth of the plantations Britain is in a great meaſure indebted for her preſent riches and ſtrength. As the wild waſtes of America have been turned into pleaſant habitations, and flouriſhing trading towns; ſo many of the little villages and obſcure boroughs in Great-Britain have put on a new face, and ſuddenly ſtarted up, and become fair markets, and manufacturing towns, and opulent cities. London itſelf, which bids fair to be the metropolis of the world, is five times more populous than it was in the days of Queen Elizabeth. Such are the fruits of the ſpirit of commerce and liberty. Hence it is manifeſt how much we all owe to that beautiful form of civil government, under which we have the happineſs to live.

It is evidently the intereſt, and ought to be the

the care of all thoſe intruſted with the adminiſtration of government, to ſee that every part of the Britiſh empire enjoys to the full the rights they are entitled to by the laws, and the advantages which reſult from their being maintained with impartiality and vigour. This we have ſeen reduced to practice in the preſent and preceding reigns; and have the higheſt reaſon, from the paternal care and goodneſs, that his majeſty, and the Britiſh parliament, have hitherto been graciouſly pleaſed to diſcover to all his Majeſty's dutiful and loyal ſubjects, and to the coloniſts in particular, to reſt ſatisfied, that our privileges will remain ſacred and inviolate. The connection between Great-Britain and her colonies is ſo natural and ſtrong, as to make their mutual happineſs depend upon their mutual ſupport. Nothing can tend more to the deſtruction of both, and to forward the meaſures of their enemies, than ſowing the ſeeds of jealouſy, animoſity and diſſention between the mother country and the colonies.

A conviction of the truth and importance of theſe principles, induced Great-Britain during the late war, to carry on ſo many glorious enterprizes for the defence of the colonies; and thoſe on their part to exert themſelves beyond their ability to pay, as is evident from the parliamentary reimburſements.

If the ſpirit of commerce was attended to, perhaps, duties would be every where decreaſed, if not annihilated, and prohibitions multiplied. Every branch of trade that hurts a community, ſhould be prohibited, for the ſame reaſon that a private gentleman would break off commerce with a ſharper or an extorſive

torſive uſurer. It is to no purpoſe to higgle with ſuch people, you are ſure to loſe by them. It is exactly ſo with a nation, if the balance is againſt them, and they can poſſibly ſubſiſt without the commodity, as they generally can in ſuch caſes, a prohibition is the only remedy; for a duty in ſuch caſe, is like a compoſition with a thief, that for five ſhillings in the pound returned, he ſhall rob you at pleaſure; when if the thing is examined to the bottom, you are at five ſhillings expence in travelling to get back your five ſhillings, and he is at the ſame expence in coming to pay it, ſo he robs you of but ten ſhillings in the pound, that you thus wiſely compound for. To apply this to trade, I believe every duty that was ever impoſed on commerce, or in the nature of things can be, will be found to be divided between the ſtate impoſing the duty, and the country exported from. This, if between the ſeveral parts of the ſame kingdom or dominions of the ſame Prince, can only tend to embarraſs trade, and raiſe the price of labour above other ſtates, which is of very pernicious conſequence to the huſbandman, manufacturer, mariner and merchant, the four tribes that ſupport the whole hive. If your duty is upon a commodity of a foreign ſtate, it is either upon the whole uſeful and gainful, and therefore neceſſary for the huſbandman, manufacturer, mariner or merchant, as finally bringing a profit to the ſtate by a balance in her favour; or the importation will work a balance againſt your ſtate. There is no medium that we know of. If the commodity is of the former kind, it ſhould be prohibited; but if the latter, im-

porte

ported duty free; unleſs you would raiſe the price of labour by a duty on neceſſaries, or make the above wiſe compoſition for the importation of commodities you are ſure to loſe by. The only teſt of a uſeful commodity is the gain upon the whole to the ſtate; ſuch ſhould be free; the only teſt of a pernicious trade is the loſs upon the whole, or to the community; this ſhould be prohibited. If therefore it can be demonſtrated that the ſugar and molaſſes trade from the northern colonies to the foreign plantations is upon the *whole* a loſs to the *community*, by which term is here meant the three kingdoms and the Britiſh dominions taken collectively, then, and not till then, ſhould this trade be prohibited. This never has been proved, nor can be; the contrary being certain, to wit, that the nation upon the whole hath been a vaſt gainer by this trade, in the vend of and pay for its manufactures; and a great loſs by a duty upon this trade will finally fall on the Britiſh huſbandman, manufacturer, mariner and merchant, and conſequently the trade of the nation be wounded, and in conſtant danger of being eat out by thoſe who can underſell her.

The art of underſelling, or rather of finding means to underſell, is the grand ſecret of thrift among commercial ſtates, as well as among individuals of the ſame ſtate. Should the Britiſh ſugar iſlands ever be able to ſupply Great-Britain and her northern colonies with thoſe articles, it will be time enough to think of a total prohibition; but until that time, both prohibition and duty will be found to be diametrically oppoſite to the firſt principles of policy.

policy. Such the extent of this continent, and the increaſe of its inhabitants, that if every inch of the Britiſh ſugar iſlands was as well cultivated as any part of Jamaica or Barbadoes, they would not now be able to ſupply Great-Britain, and the colonies on this continent. But before ſuch farther improvements can be ſuppoſed to take place in our iſlands, the demands will be proportionably increaſed by the increaſe of the inhabitants on the continent. Hence the reaſon is plain why the Britiſh ſugar planters are growing rich, and ever will, becauſe the demand for their produce has, and ever will be greater than they can poſſibly ſupply, ſo long as the Engliſh hold this continent, and are unrivalled in the fiſhery.

We have every thing good and great to hope from our gracious Sovereign, his Miniſtry and his Parliament; and truſt that when the ſervices and ſufferings of the Britiſh American colonies are fully known to the mother country, and the nature and importance of the plantation trade more perfectly underſtood at home, that the moſt effectual meaſures will be taken for perpetuating the Britiſh empire in all parts of the world. An empire built upon the principles of juſtice, moderation and equity, the only principles that can make a ſtate flouriſhing, and enable it to elude the machinations of its ſecret and inveterate enemies.

P. S. By antient and modern gods, P. 10. I mean, all idols, from thoſe of Old Egypt, to the canonized monſters of modern Rome; and by king-craft and prieſt-craft, civil and eccleſiaſtic polity, as adminiſtered in general till the revolution. I now recollect that I have been credibly informed, that the Britiſh Sugar coloniſts are humane towards their ſlaves, in compariſon with the others. Therefore in page 29, let it be read, foreign Sugar-Iſlanders and foreign Creoles.

F I N I S.

THE

GRIEVANCES

OF THE

American Colonies

CANDIDLY EXAMINED.

'Midſt the low murmurs of ſubmiſſive Fear,
And mingled Rage, my HAMPDEN rais'd his voice,
And to the LAWS appeal'd.

THOMSON.

Printed by AUTHORITY, at *Providence*, in *Rhode-Iſland*.

LONDON:

Reprinted for J. ALMON, oppoſite *Burlington-Houſe*, in *Picadilly*. MDCCLXVI.

[PRICE ONE SHILLING.]

TO

THE RIGHT HONOURABLE

WILLIAM

EARL OF DARTMOUTH,

FIRST LORD COMMISSIONER

OF THE

BOARD OF TRADE AND
PLANTATIONS;

THIS TRACT, LATELY PRINTED
BY AUTHORITY IN RHODE-ISLAND,

IS

MOST DUTIFULLY,

AND

MOST RESPECTFULLY

INSCRIBED.

THE

GRIEVANCES &c.

LIBERTY is the greateſt bleſſing that men enjoy, and ſlavery the greateſt curſe that human nature is capable of.—Hence it is a matter of the utmoſt importance to men, which of the two ſhall be their Portion. Abſolute liberty, is perhaps incompatible with any kind of government.—The ſafety reſulting from ſociety, and the advantage of juſt and equal laws, hath cauſed men to forego ſome part of their natural liberty, and ſubmit to government. This appears to be the moſt rational account of its beginning; although it muſt be confeſſed, mankind have by no means been agreed about it: ſome have found its origin in the divine appointment;

others have thought it took its riſe from power: enthuſiaſts have dreamed that dominion was founded in grace. Leaving theſe points to be ſettled by the deſcendants of Filmer, Cromwell, and Venner, we ſhall conſider the Britiſh conſtitution, as it at preſent ſtands, on Revolution Principles; and from thence endeavour to find the meaſure of the magiſtrate's power, and the people's obedience.

This glorious conſtitution, the beſt that ever exiſted amongſt men, will be confeſſed by all, to be founded on compact, and eſtabliſhed by conſent of the people. By this moſt beneficent compact, Britiſh ſubjects are to be governed only agreeable to laws, to which themſelves have ſome way conſented, and are not to be compelled to part with their property, but as it is called for by the authority of ſuch laws: the former is truly liberty; the latter is to be really poſſeſſed of property, and to have ſomething that may be called one's own.

On

On the contrary, thoſe who are governed at the will of another, or others, and whoſe Property may be taken from them by taxes, or otherwiſe, without their own conſent, and againſt their will, are in the miſerable condition of ſlaves: " For, (ſays Algernon Sidney, in his diſcourſes on government) liberty ſolely conſiſts in an independency upon the will of another; and by the name of ſlave, we underſtand a man who can neither diſpoſe of his perſon or goods, but enjoys all at the will of his maſter." Theſe things premiſed; whether the Britiſh American colonies on the continent, are juſtly entitled to like privileges and freedoms as their fellow ſubjects in Great Britain are, is a point worthy mature examination. In diſcuſſing this queſtion, we ſhall make the colonies in New England, with whoſe rights we are beſt acquainted, the rule of our reaſoning; not in the leaſt doubting but all the others are juſtly entitled to like rights with them.

New

New England was firſt planted by adventurers, who left England, their native Country, by permiſſion of king Charles the firſt; and at their own expence, tranſported themſelves to America, with great riſque and difficulty ſettled among ſavages, and in a very ſurprizing manner, formed new colonies in the wilderneſs. Before their departure, the terms of their freedom, and the relation they ſhould ſtand in to the mother country, in their emigrant ſtate were fully ſettled; they were to remain ſubject to the king, and dependant on the kingdom of Great Britain. In return they were to receive protection, and enjoy all the rights and privileges of freeborn Engliſhmen.

This is abundantly proved by the charter given to the Maſſachuſets colony, while they were ſtill in England, and which they received and brought over with them, as the authentic evidence of the conditions they removed upon. The colonies of Connecticut

and

and Rhode Iſland alſo, afterwards obtained charters from the crown, granting them the like ample Privileges. By all theſe charters, it is in the moſt expreſs and ſolemn manner granted, that theſe adventurers, and their children after them for ever, ſhould have and enjoy all the freedom and liberty that the ſubjects in England enjoy: That they might make laws for their own government, ſuitable to their circumſtances; not repugnant to, but as near as might be, agreeable to the laws of England: that they might purchaſe lands, acquire goods, and uſe trade for their advantage, and have an abſolute property in whatever they juſtly acquired. Theſe, with many other gracious privileges, were granted them by ſeveral Kings; and they were to pay as an acknowledgement to the crown, only one fifth part of the ore of gold and ſilver, that ſhould at any time be found in the ſaid colonies, in lieu of, and full ſatisfaction for all dues and demands

mands of the crown and kingdom of England upon them.

There is not any thing new or extraordinary in theſe rights granted to the Britiſh colonies:—The colonies from all countries, at all times, have enjoyed equal freedom with the mother ſtate. Indeed, there would be found very few people in the world, willing to leave their native country, and go through the fatigue and hardſhip of planting in a new uncultivated one, for the ſake of loſing their freedom. They who ſettle new countries muſt be poor; and in courſe, ought to be free. Advantages, pecuniary or agreeable, are not on the Side of emigrants, and ſurely they muſt have ſomething in their ſtead.

To illuſtrate this, permit us to examine what hath generally been the condition of the colonies with reſpect to their freedom; we will begin with thoſe who went out from the ancient commonwealths of Greece, which are the firſt perhaps, we have any

good

good account of. Thucidides, that grave and judicious hiſtorian, ſays of one of them, " they were not ſent " out to be ſlaves but to be the equals " of thoſe who remained behind ;" and again, the Corinthians gave public notice, " that a new colony was " going to Epidamus, into which, all " that would enter, ſhould have " equal and like privileges with thoſe " who ſtaid at home."

This was uniformly the condition of all the Grecian colonies ; they went out and ſettled new countries ; they took ſuch forms of government as themſelves choſe, though it generally nearly reſembled that of the mother ſtate, whether democratical or orligarchical. 'Tis true they were fond to acknowledge their original, and always oonfeſſed themſelves under obligation to pay a kind of honorary reſpect to, and ſhew a filial dependance on the commonwealth from whence they ſprung. Thucidides again tells us, that the Corinthians complained

complained of the Coreyreans " from
" whom, though a colony of their own
" they had received ſome contemp-
" tuous treatment: for they neither
" payed them the uſual honour on
" their public ſolemnities, nor began
" with a Corinthian in the diſtribu-
" tion of the ſacrifices which is al-
" ways done by other colonies."
From hence it is plain what kind of dependance the Greek colonies were under, and what ſort of acknowledgement they owed to the mother ſtate.

If we paſs from the Grecian to the American colonies, we ſhall find them not leſs free; but this difference may be obſerved between them, that the Roman colonies did not, like the Grecian, become ſeparate ſtates, governed by different laws, but always remained a part of the mother ſtate; and all that were free of the colonies, were alſo free of Rome. And Grotius gives us the opinion of a Roman king, concerning the freedom of Colonies: king Tullus ſays,

" for

" for our part, we look upon it to
" be neither truth nor juſtice, that
" mother cities ought of neceſſity,
" and by the law of nature, to rule
" over their colonies."

When we come down to the latter ages of the world, and conſider the colonies planted in the three laſt centuries, in America, from ſeveral kingdoms in Europe, we ſhall find them, ſays Puffendorf, very different from the antient colonies, and he gives us an inſtance in thoſe of the Spaniards. Although it be confeſſed theſe fall greatly ſhort of enjoying equal freedom with the ancient Greek and Roman ones; yet it will be truly ſaid, they enjoy equal freedom with their countrymen in Spain: but as they are all under the government of an abſolute monarch, they have no reaſon to complain that one enjoys the liberty the other is deprived of. The French colonies will be found nearly in the ſame condition, and for the ſame reaſon, becauſe their fellow-ſub-

jects of France have alſo loſt their liberty. And the queſtion is not whether all colonies, as compared with one another, enjoy equal liberty, but whether all enjoy as much freedom as the inhabitants of the mother ſtate; and this will hardly be denied in the caſe of the Spaniſh, French, or other modern foreign colonies.

By this it fully appears, that colonies in general, both ancient and modern, have always enjoyed as much freedom as the mother ſtate from which they went out: and will any one ſuppoſe the Britiſh colonies in America are an exception to this general rule? Colonies that came from a kingdom renowned for liberty; from a conſtitution founded on compact, from a people of all the ſons of men, the moſt tenacious of freedom; who left the delights of their native country, parted from their homes, and all their conveniencies, ſearched out and ſubdued a foreign country with the moſt amazing travail and fortitude, to the infinite advantage and emo-

emolument of the mother ſtate; that removed on a firm reliance of a ſolemn compact, and royal promiſe and grant, that they, and their ſucceſſors for ever, ſhould be free, ſhould be partakers and ſharers in all the privileges and advantages of the then Engliſh, now Engliſh conſtitution.

If it were poſſible a doubt could yet remain, in the moſt unbelieving mind, that theſe Britiſh colonies are not every way juſtly and fully intituled to equal liberty and freedom with their fellow-ſubjects in Europe, we might ſhew, that the parliament of Great-Britain have always underſtood their rights in the ſame light.

By an act paſſed in the thirteenth year of the reign of his late majeſty King George the Second, intituled, "An act for naturalizing foreign proteſtants, &c." and by another act, paſſed in the ſame reign, for nearly the ſame purpoſes, by both which it is enacted and ordained, "That all

" foreign proteſtants, who had in-
" habited, and reſided for the ſpace
" of ſeven years, or more, in His
" Majeſty's colonies in America," might, on the conditions therein mentioned, be naturalized, and thereupon ſhould be " deemed, adjudged, " and taken to be His Majeſty's na-
" tural born ſubjects of the kingdom
" of Great-Britain, to all intents,
" conſtructions, and purpoſes, as if
" they, and every one of them, had
" been, or were born within the
" ſame." No reaſonable man will here ſuppoſe the parliament intended, in theſe acts, to put foreigners who had been in the colonies only ſeven years, in a better condition than thoſe who had been born in them, or had removed from Britain thither, but only to put thefe foreigners on an equality with them; and, to do this, they are obliged to give them all the rights of natural-born ſubjects of Great Britain.

From

From what has been ſhewn, it will appear beyond a doubt, that the Britiſh ſubjects in America, have equal rights with thoſe in Britain; that they do not hold thoſe rights as privileges granted them, but poſſeſs them as inherent and indefeaſible.

And the Britiſh legiſlative and executive powers have conſidered the colonies as poſſeſſed of theſe rights, and have always heretofore, in the moſt tender and parental manner, treated them as their dependant (though free) condition required. The protection promiſed on the part of the crown, which with chearfulneſs and gratitude we acknowledge, hath at all times been given to the colonies. The dependance of the colonies to Great-Britain hath been fully teſtified by a conſtant and ready obedience to all the commands of His preſent Majeſty, and royal predeceſſors; both men and money having been raiſed in them at all times when called for, with as much alacrity and as large pro-

proportions as hath been done in Great Britain, the ability of each conſidered. It muſt alſo be confeſſed with thankfulneſs, that the firſt adventurers and their ſucceſſors, for one hundred and thirty years, have fully enjoyed all the freedoms and immunities promiſed on their removal from England—But here the ſcene ſeems to be unhappily changing:—The Britiſh miniſtry, whether induced by a jealouſy of the colonies, by falſe informations, or by ſome alteration in the ſyſtem of political government, we have no information; whatever hath been the motive, this we are ſure of, the parliament paſſed an act, limitting reſtricting, and burdening the trade of thoſe colonies, much more than had ever been done before; as alſo for greatly enlarging the power and juriſdiction of the Courts of admiralty in the colonies, and likewiſe paſſed another act, eſtabliſhing certain ſtamp duties. Theſe acts have occaſioned great uneaſineſs among

among the Britiſh ſubjects on the continent of America. How much reaſon there is for it, we will endeavour, in the moſt modeſt and plain manner we can, to lay before the public.

In the firſt place, let it be conſidered, that although each of the colonies hath a legiſlature within itſelf, to take care of its Intereſts, and provide for its peace and internal government, yet there are many things of a more general nature, quite out of the reach of theſe particular legiſlatures, which it is neceſſary ſhould be regulated, ordered and governed. One of this kind is, the commerce of the whole Britiſh empire, taken collectively, and that of each kingdom and colony in it, as it makes a part of that whole: Indeed, every thing that concerns the proper intereſt and fit government of the whole commonwealth, of keeping the peace, and ſubordination of all the parts towards the whole, and one among another, muſt be conſidered in this light:

amongſt

amongſt theſe general concerns, perhaps money and paper credit, thoſe grand inſtruments of all commerce, will be found alſo to have a place. Theſe, with all other matters of a general nature, it is abſolutely neceſſary ſhould have a general power to direct them; ſome ſupreme and overruling authority, with power to make laws, and form regulations for the good of all, and to compel their execution and obſervation. It being neceſſary ſome ſuch general power ſhould exiſt ſomewhere, every man of the leaſt knowledge of the Britiſh conſtitution, will be naturally led to look for, and find it in the parliament of Great Britain; that grand and auguſt legiſlative body muſt from the nature of their authority, and the neceſſity of the thing, be juſtly veſted with this power. Hence it becomes the indiſpenſable duty of every good and loyal ſubject, chearfully to obey and patiently ſubmit to all the acts, laws, orders and regulations

tions that may be made and paſſed by parliament, for directing and governing all theſe general matters.

Here it may be urged by many, and indeed, with great appearance of reaſon, that the equity, juſtice and beneficence, of the Britiſh conſtitution, will require, that the ſeparate kingdoms and diſtinct colonies, who are to obey and be governed by theſe general laws and regulations, ought to be repreſented, ſome way or other, in parliament; at leaſt whilſt theſe general matters are under conſideration. Whether the colonies will ever be admitted to have repreſentatives in parliament—whether it be conſiſtent with their diſtant and dependant ſtate—and whether, if it were admitted, it would be to their advantage—are queſtions we will paſs by; and obſerve, that theſe colonies ought in juſtice, and for the very evident good of the whole commonwealth, to have notice of every new meaſure about to be purſued, and

new Act about to be paſſed, by which their rights, liberties or intereſts may be affected; they ought to have ſuch notice, that they may appear and be heard by their agents, by council, or written repreſentation, or by ſome other equitable and effectual way.

The colonies are at ſo great a diſtance from England, that the members of parliament can, generally have but little knowledge of their buſineſs, connections and intereſts, but what is gained from people who have been there; the moſt of theſe, have ſo ſlight a knowledge themſelves, that the informations they can give, are very little to be depended on, though they may pretend to determine with confidence on matters far above their reach. All ſuch informations are too uncertain to be depended on, in the tranſacting buſineſs of ſo much conſequence, and in which the intereſts of

two

two millions of free people are ſo deeply concerned. There is no kind of inconvenience or miſchief can ariſe from the colonies having ſuch notice, and being heard in the manner above-mentioned; but, on the contrary, very great miſchiefs have already happened to the colonies, and always muſt be expected, if they are not heard, before things of ſuch importance are determined concerning them.

Had the colonies been fully heard, before the late act had been paſſed, no reaſonable man can ſuppoſe it ever would have paſſed at all, in the manner it now ſtands? for what good reaſon can poſſibly be given for making a law to cramp the trade and ruin the intereſt of many of the colonies, and at the ſame time, leſſen in a prodigious manner the conſumption of the Britiſh manufactures in them? Theſe are certainly the effects this act muſt produce: a duty of three-pence *per* gallon on foreign melaſſes, is well

known to every man in the leaſt acquainted with it, to be much higher than that article can poſſibly bear; and therefore muſt operate as an abſolute prohibition. This will put a total ſtop to the exportation of lumber, horſes, flour, and fiſh, to the French and Dutch ſugar-colonies; and if any one ſuppoſe we may find a ſufficient vent for theſe articles in the Engliſh Weſt-Indies, he only verifies what was juſt now obſerved, that he wants true information. Putting an end to the importation of foreign melaſſes, at the ſame time puts an end to all the coſtly diſtilleries in theſe colonies, and to the rum trade with the coaſt of Africa, and throws it into the Hands of the French. With the loſs of the foreign melaſſes trade, the cod-fiſhery in America muſt alſo be loſt, and thrown alſo into the hands of the French. That this is the real ſtate of the whole buſineſs is not mere fancy; neither this, nor any part of

it,

it, is exaggeration, but a ſober and moſt melancholy truth.

View this duty of three-pence *per* gallon on foreign melaſſes, not in the light of a prohibition, but ſuppoſing the trade to continue, and the duty to be paid. Heretofore there hath been imported into the colony of Rhode-Iſland only, about one million one hundred and fifty thouſand gallons, annually; the duty on this quantity is fourteen thouſand three hundred and ſeventy-five pounds ſterling, to be paid yearly by this little colony; a larger ſum than was ever in it at any one time. This money is to be ſent away, and never to return; yet the payment is to be repeated every year. —Can this poſſibly be done? Can a new colony, compelled by neceſſity to purchaſe all its cloathing, furniture, and utenſils from England, to ſupport the expences of its own internal government, obliged by its duty to comply with every call from the crown to raiſe money on emergencies; after all

this,

this, can every man in it pay twenty-four ſhillings a year for the duties of a ſingle article only; There is ſurely no man in his right mind believes this poſſible. The charging foreign melaſſes with this high duty, will not affect all the colonies equally, nor any other near ſo much as this of Rhode-Iſland, whoſe trade depended much more on foreign melaſſes, and on diſtilleries, than that of any others; this muſt ſhew that raiſing money for the general ſervice of the crown, or colonies, by ſuch a duty, will be extremely unequal, and therefore unjuſt. And now taking either alternative; by ſuppoſing, on one hand, the foreign melaſſes trade is ſtopped, and with it the opportunity or ability of the colonies to get money; or, on the other, that this trade is continued, and that the colonies get money by it, but all their money is taken from them by paying their duty; can Britain be a gainer by either? Is it not the chief intereſt of Britain to diſpoſe

of,

of, and be paid for her own manufactures? and doth ſhe not find the greateſt and beſt market for them in her own colonies? Will ſhe find an advantage in diſabling the colonies to continue their trade with her? or can ſhe poſſibly grow rich by their being made poor?

Miniſters have great influence, and parliaments have great power;—can either of them change the nature of things, ſtop our means of getting money, and yet expect us to purchaſe and pay for Britiſh manufactures? The genius of the people in theſe colonies is as little turned to manufacturing goods for their own uſe, as is poſſible to ſuppoſe in any people whatſoever; yet neceſſity will compel them either to go naked in this cold country, or to make themſelves ſome ſort of cloathing, if it be only of the ſkins of Beaſts.

By the ſame act of parliament, the exportation of all kinds of timber, or lumber, the moſt natural

produce

produce of theſe new colonies, is greatly incumbered and uſeleſsly embarraſſed, and the ſhipping it to any part of Europe, except Great Britain, prohibited: This muſt greatly affect the linen manufacture in Ireland, as that kingdom uſed to receive great quantities of flax-ſeed from America, many cargoes being made of that, and of barrel ſtaves, were ſent thither every year; but as the ſtaves can no longer be exported thither, the ſhips carrying only flax ſeed caſks, without the ſtaves, which uſed to be intermixed among them, muſt loſe one half of their freight, which will prevent their continuing this trade, to the great injury of Ireland, and of the plantations: And what advantage is to accrue to Great Britain by it, muſt be told by thoſe who can perceive the utility of this meaſure.

Enlarging the power and juriſdiction of the courts of vice-admiralty in the colonies, is another part of the ſame act, greatly and juſtly complained of

of. Courts of admiralty have long been eſtabliſhed in moſt of the colonies, whoſe authority were circumſcribed within moderate territorial juriſdictions; and whoſe courts have always done the Buſineſs neceſſary to be brought before thoſe courts for trial, in the manner it ought to be done, and in a way only moderately expenſive to the ſubjects; and if ſeizures were made, or informations exhibited, without reaſon, or contrary to law, the informer or ſeizer, was left to the juſtice of the common law, there to pay for his folly, or ſuffer for his temerity. But now this caſe is quite altered, and a cuſtom houſe officer may make a ſeizure in Georgia, of goods ever ſo legally imported, and carry the trial to Halifax, at fifteen hundred miles diſtance, and thither the owner muſt follow him to defend his property; and when he comes there, quite beyond the circle of his friends, acquaintance, and correſpondence, among total ſtrangers,

he muſt there give bond, and muſt find ſureties to be bound with him in a large ſum before he ſhall be admitted to claim his own goods; when this is complied with, he hath a trial, and his goods acquitted. If the judge can be prevailed on (which it is very well known may too eaſily be done) to certify, there was *only* probable cauſe for making the ſeizure, the unhappy owner can not maintain any action againſt the illegal ſeizer, for damages, or obtain any ſatisfaction; but he may return to Georgia, quite ruined, and undone in conformity to an act of parliament. Such unbounded encouragement and protection given to informers, muſt call to every one's remembrance Tacitus's account of the miſerable condition of the Romans in the reign of Tiberius their emperor, who let looſe and encouraged the informers of that age. Surely if the colonies had been fully heard before this had been done, the liberties and

properties

properties of the Americans would not have been ſo much diſregarded.

The reſolution that the houſe of commons came into during the ſame ſeſſion of parliament, aſſerting their right to eſtabliſh ſtamp duties, and internal taxes, to be collected in the colonies without their own conſent, hath much more, and for much more reaſon alarmed the Britiſh ſubjects in America, than any thing that had ever been done before. Theſe reſolutions have been ſince carried into execution by an act of parliament which the coloniſts do conceive is a violation of their long enjoyed rights. For it muſt be confeſſed by all men, that they who are taxed at Pleaſure by others, cannot poſſibly have any property, can have nothing to be called their own; they who have no property can have no freedom, but are indeed reduced to the moſt abject ſlavery; are in a ſtate far worſe than countries conquered and made tributary; for theſe have only a fixed ſum

to pay, which they are left to raiſe among themſelves, in the way that they may think moſt equal and eaſy; and having paid the ſtipulated ſum, the debt is diſcharged, and what is left is their own. This is more tolerable, than to be taxed at the mere will of others, without any bounds, without any ſtipulation or agreement, contrary to their conſent and againſt their wills. If we are told that thoſe who lay theſe taxes upon the colonies are men of the higheſt character for wiſdom juſtice and integrity, and therefore cannot be ſuppoſed to deal hardly, unjuſtly or unequally by any; admitting, and really believing that all this is true, it will make no alteration in the nature of the caſe; for one who is bound to obey the will of another, is as really a ſlave, though he may have a good maſter, as if he had a bad one; and this is ſtronger in politic bodies than in natural ones, as the former have a perpetual ſucceſſion, and remain the ſame; and

although

although they may have a good maſter at one time, they may have a very bad one at another. And indeed, if the people in America, are to be taxed by the repreſentatives of the people in Britain, their malady is an increaſing evil, that muſt always grow greater by time. Whatever burdens are laid upon the Americans, will be ſo much taken off the Britons; and the doing this will ſoon be extremely popular, and thoſe who put up to be members of the houſe of commons, muſt obtain the votes of the people, by promiſing to take taxes off them, by making new levies on the Americans. This muſt moſt aſſuredly be the caſe, and it will not be in the power even of the parliament to prevent it; the people's private intereſt will be concerned, and will govern them; they will have ſuch, and only ſuch repreſentatives as will act agreeable to their intereſt; and theſe taxes, laid on Americans, will be always a part

of

of the ſupply bill, in which the other branches of the legiſlature can make no alteration: and, in truth, the ſubjects in the colonies will be taxed at the will and pleaſure of their fellow-ſubjects in Britain.——How equitable and how juſt this may be, muſt be left to every impartial man to determine.

But it will be ſaid, that the monies drawn from the colonies by duties, and by taxes, will be laid up and ſet apart to be uſed for their future defence: this will not at all alleviate the hardſhip, but ſerve only more ſtrongly to mark the ſervile ſtate of the people. Free people have ever thought, and always will think, that the money neceſſary for their defence, lies ſafeſt in their own hands, until it be wanted immediately for that purpoſe. To take the money of the Americans, which they want continually to uſe in their trade, and lay it up for their defence, at a thouſand leagues diſtant from them, when the enemies

enemies they have to fear are in their own neighbourhood, hath not the greateſt probability of friendſhip or of prudence.

It is not the judgment of free people only, that money for defending them is ſafeſt in their keeping, but it is alſo the opinion of the beſt and wiſeſt kings and governors of mankind, in every age of the world, that the wealth of a ſtate was moſt ſecurely as well as moſt profitably depoſited in the hands of their faithful ſubjects: Conſtantius, emperor of the Romans, though an abſolute prince, both practiſed and praiſed this method. "Diocleſian ſent per-
" ſons on purpoſe to reproach him
" with his neglect of the publick,
" and the poverty to which he was
" reduced by his own fault. Con-
" ſtantius heard theſe reproaches
" with patience; and having per-
" ſuaded thoſe who made them in
" Diocleſian's name, to ſtay a few
" days with him, he ſent word to

" the

" the moſt wealthy perſons in the
" provinces, that he wanted money,
" and that they had now an oppor-
" tunity of ſhewing whether or no
" they really loved their prince. Up-
" on this notice, every one ſtrove
" who ſhould be foremoſt in carry-
" ing to the exchequer all their gold,
" ſilver, and valuable effects, ſo that
" in a ſhort time, Conſtantius from
" being the pooreſt, became by far
" the moſt wealthy of all the four
" princes. He then invited the de-
" puties of Dioclefian to viſit his
" treaſury, deſiring them to make a
" faithful report to their maſter of
" the ſtate in which they ſhould
" find it. They obeyed; and, while
" they ſtood gazing upon the migh-
" ty heaps of gold and ſilver, Con-
" ſtantius told them, that the wealth
" which they beheld with aſtoniſh-
" ment, had long ſince belonged to
" him, but that he had left it by
" way of depoſitum, in the hands
" of his people: adding, the richeſt

" and

" and ſureſt treaſure of the prince,
" was the love of his ſubjects. The
" deputies were no ſooner gone,
" than the generous prince ſent for
" thoſe who had aſſiſted him in his
" exigency, commended their zeal
" and returned to every one what
" they had ſo readily brought into
" his treaſury."

We are not inſenſible, that when liberty is in danger, the liberty of complaining is dangerous; yet a man on a wrack was never denied the liberty of roaring as loud as he could, ſays Dean Swift. And we believe no good reaſon can be given, why the colonies ſhould not modeſtly and ſoberly enquire, what right the parliament of Great Britain have to tax them. We know that ſuch enquiries have by one letter writer, been branded with the little epithet of *Muſh-room Policy*; and he intimates, that for the colonies to pretend to claim any privileges, will draw down the reſentment of the parliament on

them. Is then the defence of liberty become ſo contemptible, and pleading for juſt rights ſo dangerous? Can the guardians of liberty be thus ludicrous? Can the patrons of freedom be ſo jealous and ſo ſevere?

Should it be urged that the money expended by the mother-country, for the defence and protection of America, and eſpecially during the late war, muſt juſtly entitle her to ſome retaliation from the colonies; and that the ſtamp duties and taxes, intended to be raiſed in them, are only deſigned for that equitable purpoſe; if we are permitted to examine how far this may rightfully veſt the parliament with the power of taxing the colonies, we ſhall find this claim to have no foundation. In many of the colonies, eſpecially thoſe in New England, which were planted, as is before obſerved, not at the charge of the crown or kingdom of England, but at the expence of the planters themſelves, and were not

not only planted, but alſo defended againſt the ſavages and other enemies, in long and cruel wars, which continued for an hundred years, almoſt without intermiſſion, ſolely at their own charge: and in the year 1746, when the Duke d'Anville came out from France, with the moſt formidable French fleet that ever was in the American ſeas, enraged at theſe colonies for the loſs of Louiſbourg the year before, and with orders to make an attack on them; even in this greateſt exigence, theſe colonies were left to the protection of heaven, and their own efforts. Theſe colonies having thus planted and defended themſelves, and removed all enemies from their borders, were in hopes to enjoy peace, and recruit their ſtate, much exhauſted by theſe long ſtruggles; but they were ſoon called upon to raiſe men, and ſend them out to the defence of other colonies, and to make conqueſts for the crown; they dutifully obeyed the requiſition, and with

ardour entered into thoſe ſervices, and continued in them until all encroachments were removed, and all Canada, and even the Havannah conquered. They moſt chearfully complied with every call of the crown; they rejoiced, yea even exulted in the proſperity of the Britiſh empire. But theſe colonies whoſe bounds were fixed, and whoſe borders were before cleared from enemies, by their own fortitude, and at their own expence, reaped no ſort of advantage by theſe conqueſts; they are not enlarged, have not gained a ſingle acre of land, have no part in the Indian or interior trade; the immenſe tracts of land ſubdued, and no leſs immenſe and profitable commerce acquired, all belong to Great-Britain; and not the leaſt ſhare or portion to theſe colonies, though thouſands of their members have loſt their lives, and millions of their money have been expended in the purchaſe of them; for great part of which we are yet in debt, and

from

from which we ſhall not in many years be able to extricate ourſelves. Hard will be the fate, cruel the deſtiny of theſe unhappy colonies, if the reward they are to receive for all this is the loſs of their freedom; better for them Canada ſtill remained French, yea far more eligible that it ever ſhould remain ſo, than that the price of its reduction ſhould be their ſlavery.

If the colonies are not taxed by parliament, are they therefore exempted from bearing their proper ſhares in the neceſſary burdens of government? This by no means follows. Do they not ſupport a regular internal government in each colony, as expenſive to the people here, as the internal government of Britain is to the people there? Have not the colonies here, at all times when called upon by the crown to raiſe money for the public ſervice, done it as chearfully as the parliament have done on the like occaſions? Is not this the

moſt

moſt eaſy way of raiſing money in the colonies? What occaſion then to diſtruſt the colonies, what neceſſity to fall on the preſent method to compel them to do what they have ever done freely? Are not the people in the colonies as loyal and dutiful ſubjects as any age or nation ever produced,—and are they not as uſeful to the kingdom in this remote quarter of the world, as their fellow-ſubjects are in Britain? The parliament, it is confeſſed, have power to regulate the trade of the whole empire; and hath it not full power, by this means, to draw all the money and wealth of the colonies into the mother country, at pleaſure? What motive, after all this can remain, to induce the parliament to abridge the privileges, and leſſen the rights of the moſt loyal and dutiful ſubjects; ſubjects juſtly intitled to ample freedom, who have long enjoyed, and not abuſed or forfeited their liberties, who have uſed them to their own advantage, in dutiful

tiful ſubſerviency to the orders and the intereſts of Great-Britain? Why ſhould the gentle current of tranquility, that has ſo long run with peace through all the Britiſh ſtates, and flowed with joy and with happineſs in all her countries, be at laſt obſtructed, and turned out of its true courſe, into unuſual and winding channels, by which many of theſe colonies muſt be ruined; but none of them can poſſibly be made more rich or more happy.

Before we conclude, it may be neceſſary to take notice of the vaſt difference there is between the raiſing money in a country by duties, taxes, or otherwiſe, and employing and laying out the money again in the ſame country; and raiſing the like ſums of money, by the like means, and ſending it away quite out of the country where it is raiſed. Where the former of theſe is the caſe, although the ſums raiſed may be very great, yet that country may ſupport itſelf under them;

them ; for as faſt as the money is collected together, it is again ſcattered abroad, to be uſed in commerce and every kind of buſineſs, and money is not made ſcarcer by this means, but rather the contrary, as this continual circulation muſt have a tendency, in ſome degree, to prevent its being hoarded. But where the latter method is purſued, the effect will be extremely different; for here, as faſt as the money can be collected, it is immediately ſent out of the country, never to return but by a tedious round of commerce, which at beſt muſt take up much time: here all trade, and every kind of buſineſs depending upon it will grow dull, and muſt languiſh more and more, until it comes to a final ſtop at laſt. If the money raiſed in Great-Britain in the three laſt years of the late war, and which exceeded forty millions ſterling, had been ſent out of the kingdom, would not this have nearly ruined the trade of the nation in three years only?

Think

Think then what muſt be the condition of theſe miſerable colonies, when all the money propoſed to be raiſed in them, by high duties on the importation of divers kinds of goods, by the poſt-office, by ſtamp-duties. and other taxes, is ſent quite away, as faſt as it can be collected: and this is to be repeated continually! Is it poſſible for colonies under theſe circumſtances to ſupport themſelves, to have any money, any trade, or other buſineſs carried on in them? Certainly it is not; nor is there at preſent, or ever was, any country under heaven, that did, or poſſibly could ſupport itſelf under ſuch burdens.

We finally beg leave to aſſert that the firſt planters of theſe colonies were pious Chriſtians, were faithful ſubjects: who, with a fortitude and perſeverance little known, and leſs conſidered, ſettled theſe wild countries, by God's goodneſs and their own amazing labours; thereby added

a moſt valuable dependance to the crown of Great-Britain, were ever dutifully ſubſervient to her intereſts; they ſo taught their children, that not one has been diſaffected to this day, but all have honeſtly obeyed every royal command, and chearfully ſubmitted to every conſtitutional law; they have as little inclination as they have ability to throw off their dependancy: they have moſt carefully avoided every meaſure that might be offenſive, and all ſuch manufactures as were interdicted. Beſides all this, they have riſked their lives when they have been ordered, and furniſhed their money whenever it has been called for; have never been either troubleſome or expenſive to the mother country; have kept all due order, and have ſupported a regular government; they have maintained peace, and practiſed Chriſtianity. And in all con-

47) — See the other Ed.

ditions, upon all occaſions, and in every relation, they have always demeaned themſelves as loyal, as dutiful ſubjects ought to do: and no kingdom, or ſtate, or empire, hath, or ever had colonies more quiet, or more obedient, more ſerviceable, more profitable than theſe have ever been.

May the ſame Divine Goodneſs, that guided the firſt Planters, that protected the ſettlements, and inſpired Kings to be gracious, Parliaments to be tender; ever preſerve, ever protect and ſupport our preſent Moſt Gracious King; give great wiſdom to his miniſtrrs, and much underſtanding to his parliament; perpetuate the ſovereignty of the Britiſh conſtitution, and the filial dependancy of all the colonies.

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4

CONSIDERATIONS

ON THE

PROPRIETY

OF IMPOSING

TAXES

IN THE

British COLONIES,

For the Purpose of raising a REVENUE, by ACT OF PARLIAMENT.

THE SECOND EDITION.

——Haud Totum Verba reſignent
Quod latet arcanâ, non enarrabile, fibrâ.

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By Mr. Dulaney of Maryland

PREFACE.

IT would, now, be an unfaſhionable Doctrine, whatever the ancient Opinion might be, to affirm that the Conſtituent can bind his Repreſentative by Inſtructions; but though the obligatory Force of theſe Inſtructions is not inſiſted upon, yet their perſuaſive Influence, in moſt Caſes, may be; for a Repreſentative, who ſhould act againſt the explicit Recommendation of his Conſtituents, would moſt deſervedly forfeit their Regard and all Pretenſion to their future Confidence.

When it is under Deliberation, whether a new Law ſhall be Enacted, in which the Electors of England *are intereſted,* THEY *have Notice of it, and an Opportunity of declaring their Senſe.*——THEY *may point out every dangerous Tendency, and are not reſtrained in their Repreſentations, from ſhewing in the plaineſt Language, the Injuſtice or Oppreſſion of it.*

When a Law in its Execution is found to be repugnant to the Genius of Liberty, or productive of Hardſhips or Inconvenience, THEY *may alſo inſtruct their Deputies to exert Themſelves in procuring a Repeal of*

it, and in the Exerciſe of this Right are not conſtrained to whine in the Style of humble Petitioners.—— THEY *are expoſed to no Danger in explaining their Reaſons*——THEIR *Situation does not become ſo delicate as to make it prudent, to weaken, by not urging them, with their full Force, and to their utmoſt Extent. But who are the Repreſentatives of the Colonies? To whom ſhall* THEY *ſend their Inſtructions, when deſirous to obtain the Repeal of a Law ſtriking at the Root and Foundation of every Civil Right, ſhould ſuch an one take Place? Inſtructions to all the Members who compoſe the Houſe of Commons would not be proper. To them the Application muſt be by Petition, in which an unreſerved Style would, probably, be deemed Indecency, and ſtrong Expreſſions Inſolence, in which a Claim of Rights may not, perhaps, be explained, or even inſinuated, if to impugn or glance at their Authority whoſe Relief is ſupplicated. To ſoften and deprecate muſt be the Hope and Endeavour, though a guiltleſs Freeman would, probably, be aukward in ringing all the Changes of* Parce, Precor.

Under theſe Circumſtances, the Liberty of the Preſs is of the moſt momentous Conſequence, for if Truth is not allowed to ſpeak thence in its genuine Language of Plainneſs and Simplicity, nor Freedom to vindicate its Privileges with decent Firmneſs, we ſhall have too much Reaſon to acknowlege his Foreſight who predicted, that "the Conſtitution of the Britiſh *Government "was too excellent to be permanent." The Train for*

the

the Accompliſhment of that Propheſy hath not yet catched in America, *nor, I truſt, been laid.*

That there have been Laws extremely unjuſt and oppreſſive, the Declarations of ſubſequent Parliaments, fixing this Stigma upon them, evince; but whilſt the Power which introduced them prevailed, it was not prudent to give them their deſerved Characters. The Parliament of Henry *III, or that of* Henry *VI, need not be cited; there are many other Inſtances, though not branded with Epithets ſo remarkably opprobrious.*

In the Opinion of a great Lawyer, an Act of Parliament may be void, and of a great Divine, "*all* "*Men have natural, and Freemen legal Rights;* "*which they may juſtly maintain, and no legiſlative* "*Authority can deprive them of.*"

Caſes may be imagined in which the Truth of theſe Poſitions might, in Theory, be admitted; but in Practice, unleſs there ſhould be very peculiar Circumſtances, ſuch as cannot be ſuppoſed to exiſt during the Prevalence of the Power that introduced it, who would rely upon the Authority of Opinions, or the Principles of them, for his Protection againſt the Penalties of any *poſitive Law?*

When the Judges were aſked by Henry *VIII, Whether a Man might be attainted of High Treaſon by Parliament, though not called to anſwer, they declared that it was a dangerous Queſtion, and gave the evaſive*

ſive Anſwer that, "the High Court of Parliament "ought to give Examples of Juſtice to the inferior "Courts, none of which could do the like." But though it might be dangerous to declare againſt the Authority of Parliament, we are not bound to acknowledge its Inerrability, nor precluded from examining the Principles and Conſequences of Laws, or from pointing out their Improprieties, and Defects. Upon this Ground I have proceeded in the following Conſiderations, and ſhall not be diſappointed if they ſhould appear to be too free, or too reſerved, to Readers of different Complexions.

VIRGINIA, AUGUST 12, 1765.

CONSIDERATIONS, &c.

IN the Conſtitution of *England*, the Three principal Forms of Government, Monarchy, Ariſtocracy and Democracy, are blended together in certain Proportions ; but each of theſe Orders, in the Exerciſe of the legiſlative Authority, hath its peculiar Department, from which the other are excluded. In this Diviſion, the *Granting of Supplies*, or *Laying Taxes*, is deemed to be the Province of the Houſe of Commons, as the Repreſentative of the People.---All Supplies are ſuppoſed to flow from their Gift; and the other Orders are permitted only to aſſent, or reject generally, not to propoſe any Modification, Amendment, or partial Alteration of it.

This Obſervation being conſidered, it will undeniably appear, that, in framing the late *Stampt Act*, the Commons acted in the Character of Repreſentative of the Colonies. They aſſumed it as the Principle of that Meaſure, and the *Propriety* of it muſt therefore ſtand, or fall, as the Principle is true, or falſe : For the Preamble ſets forth, That the Commons of *Great Britain* had reſolved to *Give and Grant* the ſeveral Rates and Duties impoſed by the Act ; but what Right had the Commons of *Great Britain* to be thus munificent at the

Expence of the Commons of *America?*——To give Property, not belonging to the Giver, and without the Conſent of the Owner, is ſuch evident and flagrant Injuſtice, in *ordinary Caſes*, that few are hardy enough to avow it; and therefore, when it really happens, the Fact is diſguiſed and varniſhed over by the moſt plauſible Pretences the Ingenuity of the Giver can ſuggeſt.——But it is alledged that there is a *Virtual*, or *implied Repreſentation* of the Colonies ſpringing out of the Conſtitution of the *Britiſh* Government: And it muſt be confeſſed on all Hands, that, as the Repreſentation is not actual, it is virtual, or it doth not exiſt at all; for no third Kind of Repreſentation can be imagined. The Colonies claim the Privilege, which is common to all *Britiſh Subjects*, of being taxed *only* with their own Conſent given by their Repreſentatives, and all the Advocates for the *Stamp Act* admit this Claim. Whether, therefore, upon the whole Matter, the Impoſition of the *Stamp Duties* is a *proper* Exerciſe of Conſtitutional Authority, or not, depends upon the ſingle Queſtion, Whether the Commons of *Great-Britain* are *virtually* the Repreſentatives of the Commons of *America*, or not.

The Advocates for the Stamp Act admit, in expreſs Terms, that "the Colonies do not chuſe "Members of Parliament," but They aſſert that "the Colonies are *virtually* repreſented in the ſame "Manner with the Non-Electors reſident in *Great* "*Britain.*"

How have They proved this Poſition? Where have They defined, or preciſely explained what They mean by the Expreſſion, *Virtual Repreſentation?* As it is the very Hinge upon which the Rectitude of the Taxation turns, ſomething more

ſatisfactory

ſatisfactory than mere Aſſertion, more ſolid than a Form of Expreſſion, is neceſſary; for, how can it be ſeriouſly expected, that Men, who think Themſelves injuriouſly affected in their Properties and Privileges, will be convinced and reconciled by a fanciful Phraſe, the meaning of which can't be preciſely aſcertained by thoſe who uſe it, or properly applied to the Purpoſe for which it hath been advanced.

They argue, that " the Right of Election being " annexed to certain Species of Property, to Fran- " chiſes and Inhabitancy in ſome particular Places, " a very ſmall Part of the Land, the Property, and " the People of *England* is comprehended in thoſe " Deſcriptions. All Landed Property, not Free- " hold, and all Monied Property, are *excluded*. " The Merchants of *London*, the Proprietors of " the Public Funds, the Inhabitants of *Leeds*, " *Halifax*, *Birmingham*, and *Manchester*, and that " great Corporation of the *Eaſt India* Company, " *None of Them* chuſe their Repreſentatives, and " yet are They all repreſented in Parliament, and " the Colonies being *exactly* in *their* Situation, are " repreſented in the *ſame* Manner."

Now this Argument, which is all that their Invention hath been able to ſupply, is totally defective; for, it conſiſts of Facts not true, and of Concluſions inadmiſſible.

It is ſo far from being true, that all the Perſons enumerated under the Character of *Non-Electors*, are in that Predicament, that it is indubitably certain there is *no* Species of Property, landed, or monied, which is not poſſeſſed by *very many* of the *Britiſh Electors*.

 I ſhall

I ſhall undertake to diſprove the ſuppoſed Similarity of Situation, whence the ſame Kind of Repreſentation is deduced of the Inhabitants of the Colonies, and of the *Britiſh* Non-Electors; and, if I ſucceed, the Notion of a *virtual Repreſentation* of the Colonies muſt fail, which, in Truth, is a mere Cob-web, ſpread to catch the unwary, and intangle the weak. I would be underſtood. I am upon a Queſtion of *Propriety*, not of Power; and, thoûgh ſome may be inclined to think it is to little Purpoſe to diſcuſs the one, when the other is irreſiſtible, yet are They different Conſiderations; and, at the ſame Time that I invalidate the Claim upon which it is founded, I may very conſiſtently recommend a Submiſſion to the Law, whilſt it endures. I ſhall ſay Nothing of the Uſe I intend by the Diſcuſſion; for, if it ſhould not be perceived by the Sequel, there is no Uſe in it, and, if it ſhould appear then, it need not be premiſed.

Leſſees for Years, Copyholders, Proprietors of the Public Funds, Inhabitants of *Birmingham*, *Leeds*, *Halliſax*, and *Mancheſter*, Merchants of the City of *London*, or Members of the Corporation of the *Eaſt India* Company, are, *as ſuch*, under no perſonal Incapacity to be Electors; for they may acquire the Right of Election, and they are *actually* not only a conſiderable Number of Electors in each of the Claſſes of Leſſees for Years, *&c.* but in many of them, if not all, even Members of Parliament. The Intereſts therefore of the Non-Electors, the Electors, and the Repreſentatives, are individually the ſame; to ſay nothing of the Connection among Neighbours, Friends, and Relations. The Security of the Non-Electors againſt Oppreſſion, is, that their Oppreſſion will fall alſo upon the Electors and the Repreſentatives. The one can't be injured, and the other indemnified.

Further,

Further, if the Non-Electors ſhould not be taxed by the *Britiſh* Parliament, They would not be taxed *at all*; and it would be iniquitous, as well as a Soleciſm, in the political Syſtem, that They ſhould partake of all the Benefits reſulting from the Impoſition, and Application of Taxes, and derive an Immunity from the Circumſtance of not being qualified to vote. Under this Conſtitution then, a double or virtual Repreſentation may be reaſonably ſuppoſed.—The Electors, who are inſeparably connected in their Intereſts with the Non-Electors, may be juſtly deemed to be the Repreſentatives of the Non Electors, at the ſame Time They exerciſe their perſonal Privilege in their Right of Election, and the Members choſen, therefore, the Repreſentatives of both. This is the only rational Explanation of the Expreſſion, *virtual Repreſentation.* None has been advanced by the Aſſertors of it, and their Meaning can only be inferred from the Inſtances, by which They endeavour to elucidate it, and no other Meaning can be ſtated, to which the Inſtances apply.

It is an eſſential Principle of the *Engliſh* Conſtitution, that the Subject ſhall not be taxed without his Conſent, which hath not been introduced by any particular Law, but neceſſarily reſults from the Nature of that mixed Government; for, without it, the Order of Democracy could not exiſt.

Parliaments * were not formerly ſo regular in Point of Form as they now are. Even the number of Knights for each Shire were not aſcertained. The firſt Writs now extant for their Choice,

* See Treat. Peerage.

are 22nd *Edward* I, by which, Two, as at this Day, were directed to be choſen for each County; but the King not being ſatisfied with that Number, other Writs were iſſued for chuſing Two more. This diſcretionary Power being thought inconvenient, was afterwards reſtrained by the Statutes of *Richard* II, *Henry* IV, and ſubſequent Acts.

In earlier Times there was more Simplicity in the Rules of Government, and Men were more ſolicitous about the Eſſentials, than the Forms of it. When the Conſent of thoſe who were to perform, or pay any Thing extra-feudal, was fairly applied for and obtained, the Manner was little regarded; but, as the People had reaſon to be jealous of Deſigns to impoſe Contributions upon Them without their Conſent, it was thought expedient to have Formalities regulated, and fixed, to prevent this Injury to their Rights, not to deſtroy a Principle, without which, They could not be ſaid to have any Rights at all.

Before the Introduction of thoſe Formalities, which were framed with a View to reſtrain the Excurſions of Power, and to ſecure the Privileges of the Subject, as the Mode of Proceeding was more ſimple, ſo perhaps this Foundation of Conſent was more viſible than it is at preſent, wherefore it may be of Uſe to adduce ſome Inſtances, which directly point out this neceſſary and eſſential Principle of *Britiſh Liberty*.

The Lords and Commons have ſeparately given Aids and Subſidies to the Crown. In 13th *Edward* III, the Lords granted the Tenth of all the Corn, *&c.* growing upon their Demeſnes, the Commons then granting Nothing, nor concerning Them-

Themſelves with what the Lords thought fit to grant out of their own Eſtates.—At other Times, the Knights of Shires, ſeparating from the Reſt of the Commons, and joining with the Lords, have granted a Subſidy, and the Repreſentatives of Cities and Boroughs have likewiſe granted Subſidies to the Crown ſeparately, as appears by a Writ in 24th *Edward* I, which runs in theſe Words: *Rex*, &c.—*Cum Comites*, *Barones*, *Milites Nobis*, &c. *fecerunt undecimam de omnibus Bonis ſuis mobilibus*, *et Cives et Burgenſes*, &c. *ſeptimam de omnibus Bonis ſuis mobilibus*, &c. *nobis curialiter conceſſerint*, &c.——When an Affair happened, which affected only ſome Individuals, and called for an Aid to the Crown, it was common for thoſe Individuals *alone* to be ſummoned; to which Purpoſe ſeveral Writs are extant. In the 35th *Edward* III, there is a Writ (which *Dugdale* has printed in his Collection of Writs of Summons to Parliament) directed to the Earl of *Northampton*, which after reciting the Confuſion the Affairs of *Ireland* were in, and that he, and ſome other *Engliſh* Lords had Poſſeſſions in that Kingdom, and were therefore more particularly obliged to the Defence of it, follows in theſe Words: *Volumus Vobiſcum*, *et cum aliis de eodem Regno* (*Angliæ ſcilicet*) *Terras in dictâ Terrâ habentibus Colloquium habere*, &c.

But, that the Reader may perceive how ſtrictly the Principle of no Perſons being taxed without their Conſent, hath been regarded, it is proper to take Notice, that, upon the ſame Occaſion, Writs were likewiſe directed even to Women, who were Proprietors of Land in *Ireland*, to ſend their Deputies to conſult, and conſent to what ſhould be judged neceſſary to be done on the Occaſion; e. g.

e. g. *Rex*, &c.—*Mariæ*, &c. *Salutem*, &c. *Vobis*, &c. *Mandamus quod aliquem, vel aliquos de quibus confidatis apud Weſtmon. mittatis ad loquendum nobiſcum ſuper dictis Negotiis, et ad faciendum et conſentiendum Nomine veſtro, ſuper hoc quod ibidem ordinari contigerit.*

A Reflection naturally ariſes from the Inſtances cited.—When, on a particular Occaſion, *ſome* Individuals *only* were to be taxed, and not the *whole* Community, *their* Conſent *only* was called for, and in the laſt Inſtance it appears, that they, who upon an Occaſion of a general Tax, would have been bound by the Conſent of their *virtual Repreſentatives* (for in that Caſe they would have had no *actual Repreſentatives)* were in an Affair calling for a *particular* Aid from them, *ſeparate* from the reſt of the Community, required to ſend their *particular Deputies:* But how different would be the Principle of a Statute, impoſing Duties without *their* Conſent who are to pay them upon the Authority of *their* Gift, who ſhould undertake to give, what doth not belong to them.

That great King *Edward* I, inſerted in his Writ of Summons, as a firſt Principle of Law, that *quod omnes tangat ab omnibus approbetur*, which by no Torture can be made to ſignify that their Approbation or Conſent *only* is to be required in the Impoſition of a Tax, who are to pay *no* Part of it.

The Situation of the Non-Electors in *England*—their Capacity to become Electors—their inſeparable Connection with thoſe who are Electors, and their Repreſentatives—their Security againſt Op-

Oppreſſion reſulting from this Connection, and the Neceſſity of imagining a double or virtual Repreſentation, to avoid Iniquity and Abſurdity, have been explained—The Inhabitants of the Colonies are, *as ſuch*, incapable of being Electors, the Privilege of Election being exerciſeable only in Perſon, and therefore if *every* Inhabitant of *America*, had the requiſite Freehold, not *one* could vote, but upon the Suppoſition of his ceaſing to be an Inhabitant of *America*, and becoming a Reſident in *Great-Britain*, a Suppoſition which would be impertinent, becauſe it ſhifts the Queſtion—Should the Colonies not be taxed by *Parliamentary Impoſitions*, their reſpective Legiſlatures have a regular, adequate, and conſtitutional Authority to Tax them, and therefore there would not neceſſarily be an iniquitous and abſurd exemption, from their not being repreſented by *the Houſe of Commons*.

There is not that intimate and inſeparable Relation between the *Electors of* Great-Britain and the *Inhabitants of the Colonies*, which muſt inevitably involve both in the ſame Taxation; on the contrary, not a ſingle *actual* Elector in *England*, might be immediately affected by a Taxation in *America*, impoſed by a Statute which would have a general Operation and Effect, upon the Properties of the Inhabitants of the Colonies. The latter might be oppreſſed in a Thouſand Shapes, without any Sympathy, or exciting any Alarm in the former. Moreover, even Acts, oppreſſive and injurious to the Colonies in an extreme Degree, might become popular in *England*, from the Promiſe or Expectation, that the very Meaſures which depreſſed the Colonies, would

give Eaſe to the Inhabitants of *Great-Britain*. It is indeed true, that the Intereſts of *England* and the Colonies are allied, and an Injury to the Colonies produced into all its Conſequences, will eventually affect the Mother Country, yet theſe Conſequences being generally remote, are not at once foreſeen; they do not immediately alarm the Fears, and engage the Paſſions of the *Engliſh* Electors, the Connection between a Freeholder of *Great Britain*, and a *Britiſh American* being deducible only through a Train of Reaſoning, which few will take the Trouble, or can have an Opportunity, if they have Capacity, to inveſtigate; wherefore the Relation between the *Britiſh Americans*, and the *Engliſh Electors*, is a Knot too infirm to be relied on as a competent Security, eſpecially againſt the Force of a preſent, counteracting Expectation of Relief.

If it would have been a juſt Concluſion, that the Colonies being exactly in the *ſame* Situation with the *Non-Electors* of *England*, are *therefore* repreſented in the ſame Manner, it ought to be allowed, that the Reaſoning is ſolid, which, after having evinced a total *Diſſimilarity* of Situation, infers that their Repreſentation is *different*.

If the Commons of *Great-Britain* have no Right by the Conſtitution, to GIVE AND GRANT Property *not* belonging to themſelves but to others, without their Conſent actually or virtually given—If the Claim of the Colonies not to be taxed *without their Conſent*, ſignified by their Repreſentatives, is well founded, if it appears that the Colonies are not actually repreſented by the Commons of *Great-Britain*, and that the Notion of a double

double or virtual Repreſentation, doth not with any Propriety apply to the People of *America*; then the Principle of the *Stamp Act*, muſt be given up as indefenſible on the Point of Repreſentation, and the Validity of it reſted upon the *Power* which they who framed it, have to carry it into Execution.

" Should the Parliament deviſe a Tax, to be " paid only by thoſe of the People in *Great-Bri-* " *tain*, who are neither Members of either Houſe " of Parliament, nor their Electors, ſuch an Act " would be unjuſt and partial," ſaith the Author of the Claim of the Colonies, &c. who yet allows that the " Non-Electors would have a Secu- " rity againſt the Weight of ſuch a Tax, ſhould " it be impoſed, which the Colonies have not, " *viz.* That the Members of Parliament and their " Electors, muſt be relatively affected by it; but " the induſtrious *North American*, and the opu- " lent *Weſt-Indian* may have their Properties tax- " ed, and no Individual in *Great Britain* partici- " pate with them in the Burden: On the con- " trary, the Members of Parliament would make " their Court to their Conſtituents moſt effectual- " ly, by multiplying Taxes upon the Subjects of " the Colonies."

Is it not amazing that the above Author, *with theſe Sentiments*, ſhould undertake the Defence of the Stamp Duties, which, by his own Conceſſion, appear to be *more* unjuſt, and *more* partial than the Tax he ſuppoſes, and upon which he beſtows, very properly, the Epithets of *unjuſt* and *partial*.

 —*Diluit*

——*Diluit Helleborum, certô compeſcere Punctô*
Neſcius Examen.

But it has been objected, that if the Inhabitants of *America*, becauſe repreſented in their reſpective Aſſemblies, are *therefore* exempted from a *Parliamentary Tax*, then the Citizens of *London*, who are repreſented in their Common Council, may plead the *ſame Immunity*. If it were not for the Authority upon which this Objection is urged, it might be ſafely paſſed over without a particular Anſwer; but ſince it hath been introduced with an Appearance of Reliance, and the Opinion which it retails, is ſaid to have been delivered with great Gravity, and pronounced with deciſive Confidence, I would not be ſo wanting in Reſpect to an eminent Character, as to neglect the Ceremony of a direct Refutation.

But I muſt obſerve that, when the Opinion of a Lawyer is taken in a Matter of private Concern, in which he is under no Bias to deceive, a conciſe Declaration of it may generally ſuffice; he who applies for it being generally obliged to depend upon his Council's Character of Integrity and Knowledge, not only becauſe the Expence of a methodical and minute Diſcuſſion would be too Burthenſome, but becauſe the Force of legal Reaſoning is not generally underſtood. But in a Queſtion of public Concernment, the Opinion of no *Court Lawyer*, however reſpectable for his Candour and Abilities, ought to weigh more than the Reaſons adduced in Support of it. They ought to be explained, they may be examined. Conſidering his Temptations, Credit ought to be cautiouſly

tiouſly and diffidently given, to his Aſſertion of what is his Opinion.—Conſidering the Conſequence of a Deciſion, not to one Man only, but to Millions that exiſt and Myriads that may exiſt, and the exceeding Fallibility of legal Knowledge, nothing ſhort of clear Conviction, after the fulleſt Explication of the Reaſons of the Opinion, and the moſt accurate and intenſe Conſideration of their Validity, can juſtify an Acquieſcence under it.

On the preſent Occaſion, ſo immenſely important, *Nullius addictus jurare in Verba Magiſtri*, I ſhall pin my Faith upon the *Dictum* of no Lawyer in the Univerſe, and when his *ipſe dixit* is authoritatively urged, I ſhall be at no Pains to repreſs my Suſpicions that his Reaſons are concealed, becauſe, if fairly produced and held up to the Light, many Flaws in them would be diſcovered by a careful Examiner. I have lived long enough to remember many Opinions of *Court Lawyers* upon *American* Affairs; they have been all ſtrongly marked with the ſame Character; they have been generally very ſententious, and the ſame Obſervation may be applied to them all.—They have all declared *that* to be *legal*, which the Miniſter for the Time being has deemed to be *expedient*. The Opinion given by a General of the Law in the late War on the Queſtion, Whether Soldiers might be quartered on private Houſes in *America*, muſt be pretty generally remembered.

The very learned Gentleman has, it ſeems, declared that, " upon mature Deliberation, he has " formed his Opinion, that the Colonies are in " their Nature, no more than Common Corpo- " rations, and that the Inhabitants of a Colony " are no more entitled to an Exemption from Par- " liamentary

" liamentary Taxations, becauſe repreſented in " an *American* Aſſembly, than the Citizens of " *London.*"

The Objection having been ſtated, the Anſwer is obvious and clear.

The Colonies have a compleat and adequate legiſlative Authority, and are not only repreſented in their Aſſemblies, but in *no other Manner.* The Power of making Bye-Laws veſted in the Common Council is inadequate and incompleat, being bounded by a few particular Subjects; and the Common Council are actually repreſented too, by having a Choice of Members to ſerve in Parliament. How then can the Reaſon of the Exemption from internal parliamentary Taxations, claimed by the Colonies, apply to the Citizens of *London?*

The Power deſcribed in the Provincial Charters is to make Laws, and in the Exerciſe of that Power, the Colonies are bounded by no other Limitations that what reſult from their Subordination to, and Dependance upon *Great-Britain.* The Term *Bye-Laws* is as novel, and improper, when applied to the *Aſſemblies*, as the Expreſſion *Acts of Aſſembly* would be, if applied to the *Parliament of* Great-Britain, and it is as abſurd and inſenſible, to call a Colony a Common Corporation, becauſe not an independent Kingdom, and the Powers of each to make Laws and Bye-Laws, are limited, though not comparable in their Extent, and the Variety of their Objects, as it would be to call Lake *Erie*, a *Duck-puddle*, becauſe not the Atlantic Ocean.

Should

Should the Analogy between the *Colonies* and *Corporations* be even admitted for a Moment, in order to ſee what would be the Conſequence of the *Poſtulatum*, it would only amount to this, The *Colonies* are veſted with as compleat Authority to all Intents and Purpoſes to Tax themſelves, as any *Engliſh Corporation* is to make a Bye-Law, in any imaginable Inſtance for any local Purpoſe whatever, and the *Parliament* doth not make Laws for *Corporations* upon Subjects, in every Reſpect proper for *Bye-Laws*.

But I do not reſt the Matter upon this, or any other Circumſtance, however conſiderable to prove the Impropriety of a Taxation by the *Britiſh* Parliament. I rely upon the Fact, that not one Inhabitant in any Colony is, or can be *actually* or *virtually* repreſented by the *Britiſh Houſe of Commons*, and therefore, that the Stamp Duties are ſeverely impoſed.

But it has been alledged, that if the Right to *Give and Grant* the Property of the Colonies by an internal Taxation is denied to the Houſe of Commons, the Subordination or Dependence of the Colonies, and the Superintendence of the *Britiſh* Parliament cannot be conſiſtently eſtabliſhed—That any ſuppoſed Line of Diſtinction between the two Caſes, is but " a whimſical Imagination, " a chimerical Speculation againſt Fact and Ex- " perience." Now, under Favour, I conceive there is more Confidence, than Solidity in this Aſſertion, and it may be ſatisfactorily and eaſily proved, that the Subordination and Dependance of the Colonies may be preſerved, and the *ſupreme Authority* of the Mother Country be firmly ſupported, and yet the Principle of Repreſentation, and the Right of the *Britiſh* Houſe of Commons

flowing

flowing from *it*, to *Give and Grant* the Property of the Commons of *America*, be denied.

The Colonies are dependant upon *Great-Britain*, and the ſupreme Authority veſted in the King, Lords, and Commons, may juſtly be exerciſed to ſecure, or preſerve their Dependence, whenever neceſſary for that Purpoſe. This Authority reſults from, and is implied in the Idea of the Relation ſubſiſting between *England* and her Colonies; for, conſidering the Nature of human Affections, the Inferior is not to be truſted with providing Regulations to prevent his Riſing to an Equality with his Superior. But, though the Right of the Superior to uſe the proper Means for preſerving the Subordination of his Inferior is admitted, yet it does not neceſſarily follow, that he has a Right to ſeize the Property of his Inferior when he pleaſes, or to command him in every Thing, ſince, in the Degrees of it, there may very well exiſt a *Dependance* and *Inferiority*, without abſolute *Vaſſalage* and *Slavery*. In what the Superior may *rightfully* controul, or compel, and in what the Inferior ought to be at Liberty to act without Controul or Compulſion, depends upon the Nature of the Dependance, and the Degree of the Subordination; and, theſe being aſcertained, the Meaſure of Obedience, and Submiſſion, and the Extent of the Authority and Superintendence will be ſettled. When Powers, compatible with the Relation between the Superior and Inferior, have, by expreſs Compact, been granted to, and accepted by the latter, and have been, after that Compact, repeatedly recognized by the former—When They may be exerciſed effectually upon every Occaſion without any Injury to that Relation, the Authority of the Superior cannot properly interpoſe; for, by the Powers veſted in the Inferior, is the Superior limited.

By

By their Conſtitutions of Government, the Colonies are impowered to impoſe internal Taxes. This Power is compatible with their Dependance, and hath been expreſly recognized by *Britiſh* Miniſters and the *Britiſh* Parliament, upon many Occaſions; and it may be exerciſed effectually without ſtriking at, or impeaching, in any Reſpect, the Superintendence of the *Britiſh* Parliament. May not then the Line be diſtinctly and juſtly drawn between ſuch Acts as are neceſſary, or proper, for preſerving or ſecuring the Dependance of the Colonies, and ſuch as are not neceſſary or proper for that very important Purpoſe?

When the Powers were conferred upon the Colonies, they were conferred too as Privileges and Immunities, and accepted as ſuch; or, to ſpeak more properly, the Privileges belonging neceſſarily to Them as *Britiſh* Subjects, were ſolemnly declared and confirmed by their Charters, and They who ſettled in *America* under the Encouragement and Faith of theſe Charters, underſtood, not only that They *might*, but that it was their *Right* to exerciſe thoſe Powers without Controul, or Prevention. In ſome of the Charters the Diſtinction is expreſſed, and the ſtrongeſt Declarations made, and the moſt ſolemn Aſſurances given that the Settlers ſhould not have their Property taxed without their own Conſent by their Repreſentatives, though their legiſlative Authority is limited at the ſame Time, by the Subordination implied in their Relation, and They are therefore reſtrained from making Acts of Aſſembly repugnant to the Laws of *England*, and, had the Diſtinction not been expreſſed, the Powers given would have implied it, for, if the Parliament may in any Caſe interpoſe, when the Authority of the Colonies is adequate to the

Occaſion, and not limited by their Subordination to the Mother Country, it may in every *Caſe*, which would make *another* Appellation more proper to deſcribe their Condition, than the Name by which their Inhabitants have been uſually called, and have gloried in.

Becauſe the Parliament may, when the Relation between *Great Britain* and her Colonies calls for an Exertion of her Superintendence, bind the Colonies by Statute, therefore a Parliamentary Interpoſition in every other Inſtance, is juſtifiable, is an Inference that may be denied.

On ſome Emergencies, the King, by the Conſtitution, hath an abſolute Power to provide for the Safety of the State, to take Care, like a *Roman* Dictator, *ne quid Detrimenti capiat Reſpublica*, and this Power is not ſpecifically annexed to the Monarchy by any expreſs Law; it neceſſarily reſults from the End and Nature of Government: but who would infer from this, that the King, in every Inſtance, or upon every Occaſion, can, upon the Principles of the Conſtitution, exerciſe this ſupreme Power?

The *Britiſh Miniſters* have, in the moſt effectual Terms, at different Periods, from the Reign of *Charles* II, to that of the preſent King, recognized this Diſtinction in their Requiſitions, tranſmitted to the Colonies to raiſe and levy Men and Money, by Acts of Aſſembly; and recently, in the Courſe of the laſt War, they were ſo far from thinking that it was proper for the *Britiſh Houſe of Commons* to *Give and Grant* the Property *of the Colonies* to ſupport the military Operations in *America*, upon which not only the immediate Protection of that

Part

Part of the *Britiſh Dominions*, but the moſt important Intereſts, perhaps the ultimate Preſervation of *Great Britain* from Deſtruction, eſſentially depended; I ſay, on this great Occaſion of the moſt important, and national Concernment, the *Britiſh Miniſters* were ſo far from calling upon *the Houſe of Commons*, in their *peculiar* Department, to *Give and Grant* Property, belonging neither to Themſelves, nor their Conſtituents, that They directly applied to *the Colonies* to tax Themſelves, in Virtue of the Authority and Privilege conferred by their Charters, and promiſed to recommend it to the *Britiſh Parliament* to grant them a proper Compenſation for the Expence They ſhould incur in providing for the general Service.—They made good their Promiſe; and, if all the Money raiſed in the Colonies, by Acts of Aſſembly, in purſuance of the Requiſitions of the *Britiſh* Miniſters, hath not been repaid by Parliament, a very conſiderable Part of it hath.

Could They, who made the Requiſitions I have mentioned, or the Aſſemblies that complied with them, intend, or imagine the Faith of the *Engliſh* Government was to be preſerved by a Retribution, at one Time, of the Money diſburſed at the Inſtance, and upon the Credit of the *Britiſh Miniſtry*, enforced and ſupported by *Royal Aſſurances*, and by taking it back again at another Time? Is this Method of keeping the Faith of Government to be ranked among the "Improvements which have "been made beyond the Idea of former Adminiſtrations, conducted by Miniſters ignorant "of the Importance of the Colonies, or who "impotently neglected their Concerns, or were "diverted by mean Purſuits, from attending to "Them?" Is it abſolutely certain, that there never can, at any future Period, ariſe a Criſis, in

which the Exertion of the Colonies may be neceſſary, or, if there ſhould, that it will bring with it an Oblivion of all former Indirection?——But this is a Subject fitter for ſilent Meditation, than public Diſcuſſion.

There was a Time when Meaſures of Prevention might have been taken by the Colonies.—There may be a Time when Redreſs may be obtained—Till then, Prudence, as well as Duty, require Submiſſion.

It is preſumed that it was a notable Service done by *New England*, when the Militia of that Colony reduced *Cape Breton*, ſince it enabled the *Britiſh Miniſters* to make a Peace leſs diſadvantageous and inglorious than They otherwiſe muſt have been conſtrained to ſubmit to, in the humble State to which they were then reduced.—That the general Exertion *of the Colonies in* North America, during the laſt War, not only facilitated, but was indiſpenſably requiſite to the Succeſs of thoſe Operations by which ſo many glorious Conqueſts were atchieved, and that thoſe Conqueſts have put it in the Power of the preſent illuſtrious Miniſters to make a Peace upon Terms of ſo much Glory and Advantage, as to afford an inexhauſtible Subject during their Adminiſtration, and the Triumph of Toryiſm, at leaſt, for their ingenious Panegyriſts to celebrate.

An *American*, without juſtiy incurring the Imputation of Ingratitude, may doubt whether ſome other Motive, beſides pure Generoſity, did not prompt the *Britiſh Nation* to engage in the Defence of the Colonies.—He may be induced to think that the Meaſures taken for the Protection of the Plantations, were not only connected with

the Intereſts, but even neceſſary to the Defence of *Great Britain* herſelf, becauſe he may have Reaſon to imagine that *Great Britain* could not long ſubſiſt as an independent Kingdom after the Loſs of her Colonies.—He may, without Arrogance, be inclined to claim ſome Merit from the Exertion of the Colonies, ſince it enabled *Great Britain* ultimately to defend herſelf; I mean that Kind of Merit which ariſes from Benefits done to others, by the Operation of Meaſures taken for our own Sakes—a Merit moſt illuſtriouſly diſplayed in the Generoſity of *Great Britain*, when, with their Co-operation, ſhe protected the Colonies to preſerve *herſelf*.

When an Houſe is in Flames, and the next Neighbour is extremely active, and exerts his Endeavours to extinguiſh the Fire, which, if not conquered, would catch, and conſume his own Dwelling, I do not ſay, that if the Owner of the Houſe which had been in Flames, ſhould, after the Fire was ſubdued, complaiſantly thank his Neighbour generally for his Services, he would be abſurdly ceremonious; but, if the Aſſiſtant ſhould afterwards boaſt of his great Generoſity, and claim a Right to the Furniture of the Houſe which he had aſſiſted in Saving, upon the Merit of his Zeal and Activity, he would deſerve to be put in Mind of the Motive of his Service.

If the Advantages gained by the late *moſt glorious and ſucceſsful War* have been ſecured by an *adequate* Peace—If the Succeſſes that attended the military Operations of the *Britiſh* Arms, were the Effect of the conjunct Efforts of the *Britiſh Nation* and her *Colonies*, rouſed by the Spirit, excited by the Virtue, animated by the Vigour, and conducted by the Wiſdom of the ableſt Miniſter that

ever

ever ſerved his Country, has there been no Compenſation received for the Charges of the War? Are the Colonies entitled to no Credit for it?

When the Deſign is to oppreſs the Colonies with Taxes, or calumniate the late patriotic Miniſter, the *Expences of the War*, and the *Enormity* of the *national Debt* are proclaimed: When the preſent all accompliſhed Adminiſtration is to be celebrated, then is the immenſe Value of the new Acquiſitions diſplayed in the brighteſt Colours, "Acquiſitions vaſt in Extent, richly productive "of the valuable Commodities belonging to their "ſeveral Climates. The Poſſeſſion of thoſe in "*North America*, enſures the Safety of the other "Colonies there, inſomuch that our only dange-"rous Neighbours, the *French*, do not think the "Pittance left worth retaining, having, by the "Ceſſion of *Louiſiana* to the *Spaniards*, avowedly "given up for ever thoſe great Objects, for which "alone They began the War.—The ceded Iſlands "are almoſt of equal Advantage, for protecting "our own, and annoying the Settlements of the "*French* and *Spaniards*, if They ſhould be again "our Enemies.—Part of *Nova Scotia*, ſince the "Removal of the neutral *French*, hath been al-"ready ſettled by 10,000 Inhabitants, within the "Compaſs of Six or Seven Years, a Province "lately conſidered as no more than a proper Si-"tuation for a Fortreſs, whoſe Garriſon it could "not ſubſiſt: Even *Cape Breton*, that barren Ap-"pendage to the Province of *Nova Scotia*, is "known now to contain Treaſures ſo worthy of "Attention, as to be reſerved to the Crown. "The Mines there are not Veins; they are "Mountains of Coal; vaſt Clifts of nothing elſe, "ſtand open, and acceſſible; no Boring neceſſary "to find it; no Pit neceſſary to come at it; no

"Fire-

" Fire-Engines requiſite for carrying on the
" Works. This Iſland, and all the neighbouring
" Shores in the Gulph of St. *Laurence*, have an-
" other Fund of Wealth in their Fiſheries. *Ca-*
" *nada* is already a very flouriſhing Colony, inha-
" bited by 90,000 People, and their Demand on
" *Great Britain* for a Supply of Manufactures,
" muſt be immediately conſiderable. The Peltry
" will be another great Branch of Commerce,
" *Weſt-Florida* is furprizingly fertile, and luxuriantly
" productive in its natural State, of every Thing,
" and not only promiſing, but actually producing
" Wines and Silk, and Indigo, *&c. &c.*"

Is no Part of this Deſcription the Ebullition of an exuberant Fancy, and ſhall we not caſt one Glance of Retroſpection towards the Man, who, when his Country was deſpiſed, and inſulted, and ſunk into the moſt abject Condition of Deſpondence, by inſpiring her Sons with that invincible Vigour of Patriotiſm, with which himſelf was animated, not only diſpelled her Fears, ſecured her Safety, and retrieved her Honour, but humbled her Enemies, and tore from them the Reſources of their Strength, and the Supports of their Inſolence?

Are the Acquiſitions of the War retained by the Peace, ſo ineſtimably valuable, and ought not the Colonies to have ſome Conſideration that were inſtrumental in the Succeſſes whence thoſe Acquiſitions flowed, and ſtrained every Nerve in the general Service, to that Degree of Exertion, that without it, all the Power of *Great Britain*, all the amazing Abilities of her Miniſter, and all the Diſcipline, and unparalleled Bravery of her national Troops and Seamen, could not have availed beyond mere Defence, if happily ſo far? If the War was expenſive beyond all former Example, ſo were the

Succeſſes of it beneficial. If the Expences attending the military Operations in *America*, are juſtly to be charged to the ſole Defence of the Colonies, and no Part of it to the Security of *Great Britain*, or to the Views of extending her Dominions by Conqueſt, if all the Succeſſes of the War have been atchieved by the national Arms of *Great-Britain* ALONE, without any Aſſiſtance, or Co-operation of the Plantations, ſtill ought not the Claim againſt the Colonies in Equity, to be mitigated upon Reflection on the Advantages derived from Them, and of their Contribution to the national Revenue for a long Courſe of Years, during which, their Protection put the *Britiſh* Nation to very little, if any particular Expence?

If moreover, *Great Britain* hath an equitable Claim to the Contribution of the Colonies, it ought to be proportioned to their Circumſtances, and They might, ſurely, be indulged with diſcharging it in the moſt eaſy, and ſatisfactory Manner to Themſelves. If Ways and Means convenient, and conciliating would produce their Contribution, as well as oppreſſive and diſguſting Exactions, it is neither conſiſtent with Humanity nor Policy, to purſue the latter—A Power may even exiſt without an actual Exerciſe of it, and it indicates as little good Senſe as good Nature to exerciſe it, only that the Subjects of it may feel the Rod that Rules Them. Moderation may be obſerved, and Equity maintained, at the ſame Time that Superiority is aſſerted, and Authority vindicated, whatever the Apprehenſions of Puſillanimity, or the Inſolence of Uſurpation may ſuggeſt.

What is the annual Sum expected from the Colonies—what Proportion from each—how far do their Abilities extend? Theſe Matters have been

without

without doubt, preciſely aſcertained, or eaſily may be, at a Time " when the real, the ſubſtantial, " the commercial Intereſts of *Great-Britain*, are " preferred to every other Conſideration, and it is " ſo well known, that the Trade whence it's " greateſt Wealth is derived, and upon which it's " maritime Power is principally founded, depends " upon a wiſe and proper Uſe of the Colonies," which implies, at leaſt, ſuch an Underſtanding of their Circumſtances, as muſt render it extremely eaſy, to form a reaſonable Eſtimate of their comparative Wealth and the Extent of their Abilities. The Proportion of each Colony, being ſo eaſily aſcertainable at this Period of *uncommon* Knowlege of their Affairs, why has the Courſe obſerved by *former* Miniſters, when Supplies have been expected from *America*, been neglected by the *preſent?* Why was there not the uſual Requiſition communicated to the Provincial Aſſemblies, inſtead of exacting an uncertain and unequal Sum from each Colony, by a Law abruptly paſſed without any previous Default of thoſe who are affected by it?—I ſhall not call it a Law repugnant to their Genius, cancelling their Charters, infringing the moſt valuable Rights and Privileges of *Britiſh* Subjects, derogatory from the Faith and Honour of Government, unjuſt and cruel in it's Principles, rigorous and oppreſſive in the Means provided for it's Execution, and as pernicious in it's Conſequences to the Mother Country, as injurious to the Colonies in it's immediate Operation, but I may call it a rigorous and ſevere Law. It is in vain to attempt a Palliation of this uſeleſs Severity, (uſeleſs I mean to the Purpoſe of raiſing a Revenue) by fallaciouſly pretending that, as all the Colonies were to be taxed, and the Authority of each is limited, the Interpoſition of the Parliament became neceſſary; ſince nothing can be leſs diſput-

able, than that each Colony hath a competent Authority to raiſe it's Proportion, and conſequently nothing is more evident, than that all the Colonies might raiſe the whole. * The Aſſertion that the Colonies would have paid no Regard to any Requiſitions, is raſh and unauthorized, and had the Event actually happened, the Trouble and Loſs of Time to the Miniſters in making the Experiment, would not have been conſiderable or detrimental to the Nation, and after it's Failure, an Act of Parliament might ſtill have been made to compel the Contribution, if the Power which hath been exerciſed is defenſible upon the Principles of the *Britiſh Conſtitution*.

A Meaſure ſo extreme, could hardly be at once purſued, becauſe the Miniſters did not know what to demand, who have made ſo many Regulations in regard to the Colonies, "founded upon Know-"ledge, formed with Judgment, and executed "with Vigour." Had the Requiſitions been communicated, I make no doubt but They would have

* It is aſſerted in the Pamphlet entitled, *The Claim of the Colonies, &c.* that *Maryland* availing herſelf of the Protection of *Virginia* and *Pennſylvania*, contributed *nothing* to the common Defence. This Writer from a View of ſome Map of *North America* imagined, it ſhould ſeem, that *Virginia* and *Pennſylvania* were ſettled ſo as to encompaſs *Maryland*; but the Truth is, that the Frontiers of *Maryland* were as much expoſed, as thoſe of the next Colonies, and the Fact is moreover falſe, for I have been well informed that *Maryland* contributed near 50,000 *l.* and incurred beſides a conſiderable Expence, which is now a Debt upon the public Journal of that Colony, by putting her Militia into actual Service; and that an unhappy Diſpute attended with a very heavy provincial Charge, on ſome Topick of Privilege, was the real Cauſe, why the Grants of *Maryland* were not more liberal. After all, there have been Inſtances, I ſpeak not of more modern Times, in which the Parſimony of the Parliament hath been complained of, and the Notion of Privilege carried to a great Length by the Houſe of Commons; but theſe have not been thought ſolid Reaſons for ſtripping their Conſtituents of their Rights.

been

been entertained with Reſpect, and productive of all the Effects that could reaſonably have been expected from Them. A petty *American* Aſſembly would not, in Anſwer to ſuch Requiſitions, have impertinently recommended the Reduction of exorbitant Salaries, the Abatement of extravagant, and the Abolition of illegal Perquiſites, the Extinction of uſeleſs Places, or the diſbanding of undeſerving or ill deſerving Penſioners, as a more proper and beneficial Method of relieving the public Burthens, than a new and heavy Impoſition upon uſeful and induſtrious Subjects.

Have great Things been promiſed for the Eaſe of the People of *England*, and hath a Meaſure been fallen upon, that, by putting the Accompliſhment of them at a Diſtance, and keeping Expectation alive, it may contribute to the Prolongation of a Power, which, in the Interim, will find ſufficient Opportunities to gratify the Views of Miniſterial Avarice or Ambition?

If a Sum had been liquidated, and a preciſe Demand made, it might perhaps have been ſhewn, if proportioned to the Circumſtances of the Colonies, to be of no real Conſequence to the Nation; and, if above their Circumſtances, that it would, with the Oppreſſion of the Plantations, prove ruinous to the *Britiſh* Manufactures; but, whilſt Matters are thus vague, and indeterminate, any Attempt to ſhew that the *Stamp Duties* will be inadequate to the promiſed Relief, diſtreſs the Colonies, and conſequently beggar the *Britiſh* Manufacturers, may be obviated by ſaying, that "the Act is in the Na-
"ture of an Experiment: if inadequate, other
"Methods may be ſuperadded; if inconvenient,
"it may be repealed, as ſoon as diſcovered;" and

Hints may be thrown out at the ſame Time, to cheriſh the Hopes of the Nation, that there are the beſt Grounds to expect * the Meaſure will be productive of all that can be deſired or wiſhed.

The frugal *Republicans* of *North-America* (if the *Britiſh* Inhabitants there are to be diſtinguiſhed by a *Nick-Name*, becauſe it implies that They are Enemies to the Government of *England*, and ought therefore to be regarded with a jealous Eye) may be allowed, without derogating from the vaſt and prodigious Knowledge of a Miniſter, to be acquainted with their own internal Circumſtances better than a Stranger, who muſt depend upon Information; and that too, moſt frequently, of Men not the moſt eminent for their Candour, diſtinguiſhed by their Sagacity, or reſpectable for their Integrity. Had Requiſitions been made, and the Sum demanded been equitable, and proportioned to their Circumſtances, They could have fallen upon Ways and Means leſs oppreſſive than the *Stamp Duties*. They have frequently taxed Themſelves: They have tried various Methods of Taxation: They know, by Experience, the eaſieſt and leaſt expenſive.—The Meaning or Conſtruction of their Levy-Acts is ſettled: They can be carried into Execution, not only at a ſmall Expence, without exhauſting a conſiderable Part of their Produce by the Multiplication of Officers, and their Support; but with-

* It is aſſerted by the Author of *The Claim of the Colonies, &c.* that the Merchants trading to the ſeveral Colonies gave in an Eſtimate of the Debt due to Them from the Colonies, amounting to 4,000,000*l.* It would have been a real public Service if he had pointed out how this Debt is to be paid under the Oppreſſion of new and heavy Impoſitions, or what will be the proper Remedy if there ſhould be a Stoppage in the Payment of 4,000,000*l.* a Stagnation of Commerce, and want of Employment to the *Britiſh* Manufacturers.

out heavy Pains and grievous Penalties, without Oppreſſion of the innocent, giving Countenance to Vexation, and Encouragement to profligate Informers, without the Eſtabliſhment of arbitrary and *diſtant* Courts of * Admiralty.

The national Debt is heavy, and it is a popular Scheme to draw from the Colonies a Contribution towards the Relief of the Mother-Country.—The Manner of effecting it is not carefully attended to, or nicely regarded by thoſe who expect to receive the Benefit.—The End is ſo ardently deſired, that, whether the Means might not be more moderate, is not ſcrupulouſly examined by Men, who think Themſelves in no Danger of Injury or Oppreſſion from their Severity. It is affirmed to thoſe who cannot detect the Fallacy of the Aſſertion, that Millions have been expended *ſolely* in the Defence of *America*. They believe it, and thence are eaſily perſuaded that the Claim of a Contribution from the Colonies is juſt and equitable, and that any Meaſure neceſſary to ſecure it, is right and laudable.—It is repreſented, that unleſs the Colonies are ſtripped of the *Trial by Jury*, and Courts of *Admiralty* are eſtabliſhed, in which Judges from *England*, Strangers, without Connection or Intereſt in *America*, removeable at Pleaſure, and ſupported by liberal Salaries, are to preſide; unleſs Informers are encouraged and favoured, and the accuſed moſt rigorouſly dealt by, that the Tax will be eluded—and theſe Severities are excuſed on Account of their ſuppoſed Neceſſity. The Colonies are deſcribed to be a numerous, flouriſhing,

* It was formerly held to be a grievous Oppreſſion, that, inſtead of having Juſtice at Home, the *Engliſh* Subject was drawn to *Rome* by APPEALS; but an *American* is to be drawn from Home, in the FIRST INSTANCE, as well as by Appeals.

and opulent People:—It is alledged that They contribute to the national Expence, by Taxes *there*, only the pitiful Sum of 1900 *l.* per Year, for the Collection of which, an Eſtabliſhment of Officers, attended with the Expence of 7600 *l. per Annum*, is neceſſary.—Upon theſe Premiſſes, the Uneaſineſs of the Colonies, at being forced to bring more into the common Stock, appears to be unreaſonable, if not rebellious; and They ſeem rather to deſerve Reprehenſion and Correction, than Favour and Indulgence.

The Succeſſes of the War were obtained as well by the vigorous Efforts of the *Colonies*, as by the Exertion of *Great-Britain*.—The Faith of *Great-Britain* hath been engaged in the moſt ſolemn Manner, to re-pay the Colonies the Monies levied by internal Taxations for the Support of the War.—Is it conſiſtent with that Faith to tax Them towards ſinking the Debt in Part incurred by that Re-payment? The immenſe Acceſſion of Territory, and Value of the Acquiſitions obtained by the Peace, is the Conſequence of the Succeſſes of the War—The Charge of the War is leſſened by the Advantages reſulting from the Peace—The Colonies, for a long Courſe of Time have largely contributed to the public Revenue, and put *Great-Britain* to little or no Expence for their Protection.—If it were equitable to draw from Them a further Contribution, it does not therefore follow, that it is proper to force it from Them, by the harſh and rigorous Methods eſtabliſhed by the Stamp-Act; an Act unequal and diſproportioned to *their* Circumſtances whom it affects; exempting Opulence, cruſhing Indigence; and tearing from a numerous, loyal, and uſeful People, the Privileges They had, in their Opinion, earned and merited, and juſtly held

held moſt dear. If They are really in Debt, the Payment of it hath not been refuſed, it hath not been demanded.—If one Subject, grown giddy with ſudden Elevation, ſhould, at any future Period, raſhly declare, that the Colonies ſhould be taxed, at all Events, in the moſt rigorous Manner; and that Millions of induſtrious and uſeful Subjects ſhould be grievouſly oppreſſed, rather than himſelf depart from his Character of Pertinacity and Wilfulneſs, check the Impulſe of a tyrannical Diſpoſition, or forego the Gratification of his Vanity, in a wanton Diſplay of Power, Submiſſion would be an admirable Virtue indeed, if not the Effect of Impotence.

That the Contribution ariſing from the *Stamp Duties* is diſproportioned to *their* Circumſtances from whom it is exacted, is manifeſt; for They will produce in each Colony, a greater, or leſs Sum not in Proportion to its Wealth, but to the Multiplicity or Juridical Forms, the Quantity of vacant Land, the Frequency of transferring landed Property, the Extent of Paper Negotiations, the Scarcity of Money, and the Number of Debtors. A larger Sum will be exacted from a Tobacco-Colony than from *Jamaica*; and it will not only be higher in one of the pooreſt Colonies, and the leaſt able to bear it, than in the richeſt; but the principal part of the Revenue will be drawn from the pooreſt Individuals in the pooreſt Colonies, from Mortgagors, Obligors, and Defendants. If this be true, does the Act deſerve the Encomium of being *a Mode of Taxation the eaſieſt, and the moſt equal, a Duty upon Property ſpread lightly over a great Variety of Subjects, and heavy upon none?*

The Commons of Great Britain, moreover, in their Capacity of *Repreſentative*, not only *Give and Grant* the Property of the *Colonies*; but, in my Conſtruction of the Stamp-Act, (however every Reader may examine and judge for himſelf) *Give and Grant* alſo to certain Officers of the Crown, a Power to tax Them higher ſtill; for theſe Officers will not, I preſume, be called *virtual Repreſentatives* too; and what they ſhall think fit to levy, by an ingenious Extent of the Fiction, will not be conſidered as levied with the Conſent of the Colonies—The Inſtances, I believe, are *rare*, in which the Repreſentatives of the People of *England* have delegated to Officers of the Crown, the Power of taxing their Conſtituents, nor hath any Diſtinction yet been advanced to prove, that in their Capacity of *virtual Repreſentatives* of the Colonies, the Houſe of Commons not having the ſame Confidence repoſed in Them, ought to proceed upon peculiar Rules. There was a Statute of *Henry* VIII, by which, I think, the King's Proclamations, with the Conſent of the Privy Council, were to operate as Laws; and another Statute of *Richard* II, that the Power of the Two Houſes ſhould be veſted in Twelve Lords; but theſe Acts bear *no Reſemblance* to the Stamp-Act.

The Stamping Inſtruments are to be retained in *England*.—Vellum, Parchment, and Paper, are to be ſent to *America*, ready ſtamped.—The firſt Commiſſioner of the Treaſury, or the Commiſſioners, or any Three or more of Them, are, by the Act, impowered to ſet *any* Price upon the Vellum, Parchment and Paper, and the Payment of that Price is ſecured and enforced by the *ſame* Pains and Penalties that the Stamp-Duties are.

If the Subſtitution of an arbitrary civil Law Court, in the Place of the legal Judicatories, and that deſerved Favourite, the Common-Law-Trial by Jury, would not juſtify the Aſſertion, that the Stamp-Act hath ſtripped the Colonies of the Guards and Securities provided by the Conſtitution againſt Oppreſſion in the Execution of Laws, I would much leſs preſume to ſay, the veſting in the Commiſſioners of the Treaſury a Power to tax the Colonies, will amply juſtify the Aſſertion, that the Stamp-Act hath not left Them even the Shadow of a Privilege.—It is indeed ſomething difficult to imagine how the Order of Democracy, which is as much a Part of the Conſtitution as Monarchy or Ariſtocracy, can exiſt when the People are excluded from a Share in the executing, and a Share in the making of Laws; but that is *not* the preſent Caſe; and, though I may not be able to anſwer a ſpecious Objection, formed upon general Principles, I am not obliged to adopt it, till I am convinced of its Solidity.

A little Examination will find how unfair and deceptive the Repreſentation is, that the Colonies in *North America*, "Two Millions of *Britiſh* Sub-"jects, an opulent, thriving and commercial "People, contribute to the national Expence, no "more than 7 or 800 *l. per Annum* by Taxes raiſed "*there*;" for though it ſhould be acknowledged (which I neither admit nor deny, becauſe I do not know, nor have an Opportunity of coming at the Fact) that the Impoſitions upon the Inhabitants of the Colonies do not raiſe *there*, a greater Sum than hath been ſtated, it doth not follow that "the Inhabitants of the Colonies are indulged at "the Expence of *Great Britain*, and that the "needieſt *Britiſh* Cottager, who out of his ſcanty

" Pittance hardly earned, pays the high Duties " of Cuſtoms and Exciſe in the Price of his Con- " ſumptions, has Reaſon to complain," if immenſe Sums are raiſed upon the Inhabitants of the Colonies *elſewhere*.

By ſuch Artifices and Sophiſtry, is Ignorance miſled, Credulity deceived, and Prejudices excited. Thus Oppreſſion gains the Credit of Equity, Cruelty paſſes for Moderation, and Tyranny for Juſtice; and the Man who deſerves—— Reproach, is celebrated by Adulation, and applauded by Deluſion for his Wiſdom and patriotic Virtues.

The Truth is, that a vaſt Revenue ariſes to the *Britiſh* Nation from Taxes paid by the Colonies in GREAT BRITAIN, and even *the moſt ignorant* Britiſh *Cottager*, not impoſed upon by infamous Miſrepreſentation, muſt perceive, that it is of no Conſequence to his Eaſe and Relief, whether the Duties raiſed upon *America* are paid *there*, and thence afterwards remitted to *Great Britain*, or paid *at firſt* upon the produce of the Colonies in *Great Britain*.

In the Article of Tobacco, for Inſtance, the Planter pays a Tax upon that Produce of his Land and Labour conſumed in *Great Britain*, more than Six Times the clear Sum received by Him for it, beſides the Expences of Freight, Commiſſion and other Charges, and double Freight, Commiſſion and Charges upon the Tobacco re-exported, by which the *Britiſh* Merchants, Mariners and other *Britiſh* Subjects, are ſupported—a Tax, at leaſt, equal to what is paid by any Farmer of *Great Britain*, poſſeſſed of the ſame Degree of Proper-

ty; and moreover the Planter muſt contribute to the Support of the expenſive internal Government of the Colony, in which He * reſides.

Is it objected, that the Duties charged upon Tobacco, fall ultimately upon the Conſumers of this Commodity in the conſequential Price ſet upon it? Be it ſo, and let the Principle be eſtabliſhed that all Taxes upon a Commodity, are paid by the Conſumers of it, and the Conſequence of this Principle be fairly drawn, and equally applied.

The *Britiſh* Conſumers, therefore, ultimately pay the high Duties laid upon Tobacco, in Proportion to the Quantity of that Commodity which They conſume—The Colonies therefore, in Proportion to their Conſumption of *Britiſh* Manufactures, pay alſo the high Duties of Cuſtoms and Exciſe, with which the Manufactures are charged, in the conſequential Price ſet upon their Conſumptions—In their Paſſage moreover, from the *Britiſh* Manufacturers to the *American* Importers, the Commodities go through a great many Hands, by which their Coſts are enhanced; the Factors, the Carriers, the Shop-keepers, the Merchants, the Brokers, the Porters, the Watermen, the Mariners, and others, have their reſpective Profits, from which They derive their Subſiſtence, and the Support of their Families, and are enabled to pay the high Duties of Cuſtoms and Exciſe, in the Price of their * Conſumptions.

The Policy of the late Regulations of the Colonies is of the ſame Character with their Juſtice

* See the Appendix.

and Lenity. The Produce of their Lands, the Earnings of their Induſtry, and the Gains of their Commerce centre in *Great Britain*, ſupport the Artificers, the Manufactories, and Navigation of the Nation, and with Them the *Britiſh* Landholders too.

Great Britain had ALL before, and therefore can have no more from the Colonies; but the Miniſter, in the purſuit of a " well-digeſted, con- " ſiſtent, wiſe and ſalutary Plan of Colonization " and Government, a Plan founded upon the " Principles of Policy, Commerce and Finance," chuſes to demoliſh at one Blow, all their Privileges as they have underſtood Them, that he may raiſe in *America*, a Part of what was before paid in *Great Britain*. But if the Execution of it, inſtead of improving the Advantages already poſſeſſed, confirming the Bleſſings already enjoyed, and promoting the public Welfare, ſhould happen to diſtreſs the Trade, reduce the Navigation, impoveriſh the Manufacturers, and diminiſh the Value of the Lands in *Great Britain*; ſhould it drive the *Britiſh* Mechanics and Manufacturers to *America*, by depriving Them of their beſt Cuſtomers at Home, and force the Colonies upon Manufactures they are diſabled from purchaſing, other Topics of Eulogy muſt be diſcovered by his ingenious Encomiaſts, than his Wiſdom or his political Atchievements. Upon ſuch an Event, an *American* will have very little Reaſon to exclaim

O! me infelicem, qui nunc demum intelligo
Ut illa mihi profuerint quæ deſpexeram,
Et illa, quæ laudârum, quantum Luctûs habuerint!

The

The Right of Exemption from all Taxes *without their Conſent*, the Colonies claim as *Britiſh* Subjects. They derive this Right from the common Law, which their Charters have declared and confirmed, and They conceive that when ſtripped of this Right, whether by Prerogative or by any other Power, they are at the ſame Time deprived of every Privilege diſtinguiſhing Free-Men from Slaves.

On the other Hand, They acknowledge Themſelves to be ſubordinate to the Mother Country, and that the Authority veſted in the ſupreme Council of the Nation, may be juſtly exerciſed to ſupport and preſerve that Subordination.

Great and juſt Encomiums have been beſtowed upon the Conſtitution of *England*, and their Repreſentative is deſervedly the Favourite of the Inhabitants in *Britain*. But it is not becauſe the ſupreme Council is called *Parliament*, that They boaſt of their Conſtitution of Government; for there is no particular magical Influence from the Combination of the Letters which form the Word; it is becauſe They have a Share in that Council, that They appoint the Members who conſtitute one Branch of it, whoſe Duty and Intereſt it is to conſult their Benefit, and to aſſert their Rights, and who are veſted with an Authority, to prevent any Meaſures taking Effect dangerous to their Liberties, or injurious to their Properties.

But the Inhabitants in the Colonies have no Share in this great Council. None of the Members of it are, or can be of their Appointment, or in any Reſpect dependant upon Them. There is no immediate Connection; on the contrary,

there

there may be an Oppoſition of Intereſt; how puerile then is the Declamation, " what will be-
" come of the Colonies Birthright, and the glo-
" rious Securities which their Forefathers handed
" down to Them, if the Authority of the *Britiſh*
" Parliament *to impoſe Taxes* upon Them ſhould
" be given up? To deny the Authority of the
" *Britiſh* Legiſlature, is to ſurrender all Claim to
" a Share in its Councils, and if this were the
" Tenor of their Charters, a Grant more inſidi-
" ous or replete with Miſchief, could not be
" imagined, a Forfeiture of their Rights would
" be couched under the Appearance of Privi-
" lege, *&c.*"

We claim an Exemption from all *Parliamentary* Impoſitions, that We may enjoy thoſe Securities of our Rights and Properties, which We are entitled to by the Conſtitution. For thoſe Securities are derived to the Subject from the Principle *that he is not to be taxed without his own Conſent*, and an Inhabitant in *America* can give his Conſent in no other Manner than in Aſſembly. It is in the Councils that exiſt there, and there *only*, that he hath a Share, and whilſt He enjoys it, his Rights and Privileges are as well ſecured as any Elector's in *England*, who hath a Share in the national Councils there; for the Words *Parliament* and *Aſſembly* are, in this Reſpect, only different Terms to expreſs the ſame Thing.

But it is argued, that " if the Common Law
" of *England* is to be brought, as juſtifying a
" Claim of Exemption in any Subject of *Great*
" *Britain* from a Parliamentary Tax, it will plead
" againſt a Tax impoſed by a provincial Aſſem-
" bly; for as all the Colony Aſſemblies derive
" their

" their Authority from the meer Grant of the " Crown only, it might be urged that any Tax " impoſed by Them, is impoſed by Authority of " the Prerogative of the Crown, and not by full " Conſent of Parliament. That if this Right in " the Crown is acknowledged to exempt the Sub- " ject from the Juriſdiction of Parliament in the " Caſe of Taxation, its Power to diſpenſe with " Acts of Parliament, or to deprive the ſame " Subject of the Benefit of the common Law, " cannot be denied."

One would be inclined to ſuſpect that it is ſuppoſed, ſomething elſe than Reaſon may on this Occaſion conduce to Perſuaſion.

The *Engliſh* Subjects, who left their *native* Country to ſettle in the Wilderneſs of *America*, had the Privileges of *other Engliſhmen*. They knew their Value, and were deſirous of having Them perpetuated to their Poſterity. They were aware that, as their Conſent whilſt They ſhould reſide in *America*, could neither be aſked nor regularly given in the national Legiſlature, and that if They were to be bound by Laws without Reſtriction, affecting the Property they ſhould earn by the utmoſt Hazard and Fatigue, They would loſe every other Privilege which they had enjoyed in their native Country, and become meer Tenants at Will dependant upon the Moderation of their Lords and Maſters, without any other Security— That as their Settlement was to be made under the Protection of the *Engliſh* Government, They knew, that in Conſequence of their Relation to the Mother-Country, They and their Poſterity would be ſubordinate to the ſupreme national Council,

Council, and expected that Obedience and Protection would be considered as reciprocal Duties.

Considering Themselves, and being considered in this Light, They entered into a Compact with the Crown, the Basis of which was, *That their Privileges as* English *Subjects, should be effectually secured to Themselves, and transmitted to their Posterity.* And as for this Purpose, precise Declarations and Provisions formed upon the Principles, and according to the Spirit of the *English Constitution* were necessary; CHARTERS were accordingly framed and conferred by the Crown, and accepted by the Settlers, by which all the Doubts and Inconveniences which might have arisen from the Application of general Principles to a new Subject, were prevented.

By these Charters, founded upon the unalienable Rights of the Subject, and upon the most sacred Compact, the Colonies claim a Right of Exemption from Taxes *not imposed with their Consent.*—They claim it upon the Principles of the Constitution, as once *English*, and now *British* Subjects, upon Principles on which their Compact with the Crown was originally founded.

The Origin of other Governments is covered by the Veil of Antiquity, and is differently traced by the Fancies of different Men; but, of the Colonies, the Evidence of it is as clear and unequivocal as of any other Fact.

By these declaratory Charters the Inhabitants of the Colonies claim an Exemption from *all* Taxes not imposed by their own Consent, and to infer from

from their Objection to a Taxation, to which their Conſent is not, nor can be given, *that They are ſetting up a Right in the Crown to diſpenſe with Acts of Parliament, and to deprive the* Britiſh *Subjects in* America *of the Benefits of the common Law*, is ſo extremely abſurd, that I ſhould be at a Loſs to account for the Appearance of ſo ſtrange an Argument, were I not apprized of the unworthy Arts employed by the Enemies of the Colonies to excite ſtrong Prejudices againſt Them in the Minds of their Brethren at Home, and what groſs Incongruities prejudiced Men are wont to adopt.

Though I am perſuaded that this Reaſoning hath already been ſufficiently refuted, and that no ſenſible and diſpaſſionate Man can perceive any Force in it, yet I cannot help remarking, that it is grounded upon a Principle, which, if it were poſſible for the Examiner to eſtabliſh it, would entitle him to the Applauſe of the Inhabitants in *Great Britain*, as little as to the Thanks of the Colonies.

From what Source do the Peers of *England* derive their Dignity, and the Share They have in the *Britiſh Legiſlature?* Are there no Places in *England* that derive their Power of chuſing Members of Parliament from royal Charters? Will this Writer argue, that the Crown may, by Prerogative, tax the Inhabitants of *Great-Britain*, becauſe the Peers of *England*, and ſome Repreſentatives of the People, exerciſe a legiſlative Authority under royal Patents and Charters? It muſt be admitted that all the Members of the Houſe of Commons are freely choſen by the People, and are not afterwards ſubject to any Influence of the Crown or the Miniſtry: And are not

the Members of the lower Houſes of Aſſembly as freely choſen alſo by the People; and, in Fact, as independent as the Members of the Houſe of Commons? If the Truth were confeſſed, the Objection would not be, *that the Colonies are too dependent upon the Crown*, or that their Claim of Exemption from all Taxes not impoſed by their own Conſent, *is founded upon a Principle leading to Slavery*. At one Time, the *North Americans* are called *Republicans*; at another, *the Aſſertors of Deſpotiſm*. What a ſtrange Animal muſt a *North American* appear to be from theſe Repreſentations to the Generality of *Engliſh* Readers, who have never had an Opportunity to admire, that He may be neither black, nor tawny, may ſpeak the *Engliſh* Language, and, in other Reſpects, ſeem, for all the World, like one of Them!

"The common Law, the great Charter, the "Bill of Rights," are ſo far from "declaring, "with one Voice, that the Inhabitants of the Co-"lonies ſhall be taxed by no other Authority than "that of the *Britiſh Parliament*," that They prove the contrary; for the Principle of the common Law is, *that no Part of their Property ſhall be drawn from* Britiſh *Subjects, without their Conſent, given by thoſe whom They depute to repreſent Them*; and this Principle is enforced by the Declaration of the GREAT CHARTER, and *the Bill of Rights*; neither the one nor the other, introducing any *new* Privilege. In *Great-Britain*, the Conſent of the People is given by the Houſe of Commons: and, as Money had been levied there for the Uſe of the Crown, *by Pretence of Prerogative, without their Conſent*, it was properly declared at the Revolution, in Support of the Conſtitution, and in Vindication of the People's Rights; that the levying

ing of Money, by *Pretence of Prerogative*, without Grant of Parliament, *i. e.* without their Conſent who are to pay it, is illegal, which Declaration was moſt ſuitable to the Occaſion, and effectually eſtabliſhes the very Principle contended for by the Colonies.

The Word *Parliament*, having been made uſe of, the *Letter* of the Declaration is adhered to, and the Conſequence drawn, that no *Britiſh* Subject can be legally taxed, but by the Authority of the *Britiſh Parliament*, againſt the Spirit and Principle of the Declaration, which was aimed only to check and reſtrain the *Prerogative*, and to eſtabliſh the Neceſſity of obtaining *the Conſent* of thoſe on whom Taxes were to be levied. Is not this a new Kind of Logic, to infer from Declarations and Claims, founded upon the neceſſary and eſſential Principle of a free Government, that the People ought not to be taxed without their Conſent, that therefore the Colonies ought to be taxed by an Authority, in which their Conſent is not, nor can be concerned; or, in other Words, to draw an Inference from a Declaration or Claim of Privilege, ſubverſive of the very Principle upon which the Privilege is founded? How aukwardly are the Principles of the Revolution applied by ſome Men! What Aſtoniſhment would the Promoters of that glorious Meaſure, thoſe Patrons and Friends of Liberty, did They now tread the Stage of this World, expreſs, that a *Word*, by which They meant to aſſert the Privileges of the Subject, and reſtrain deſpotic Power, ſhould be relied upon to demoliſh the very Principle by which Themſelves were animated, and after all their Pains and Hazards to eſtabliſh the generous Sentiments of Liberty, that thoſe who feel and enjoy

the Bleſſings of their ſucceſsful Struggles, ſhould not be able to raiſe a Thought beyond the Ideas affixed to ſyſtematic Terms.

It was declared alſo by the *Bill of Rights*, that the Elections of *Members of Parliament* ought to be free, and the common Law laid down the ſame Rule before, which is as applicable to the Election of the Repreſentatives of the Colonies, as of the Commons of *Great Britain*. But with the Help of the Examiner's Logic, it might be proved from the *Letter* of the *Bill of Rights*, that the Elections *only* of *Members* of *Parliament* ought to be free; for the Freedom expreſſed in the Bill of Rights, is as much attached to Elections of Members of Parliament, as the Authority to grant Money is to *the* Britiſh *Parliament*, and if the Declaration in the one Caſe implies a Negative, there is the like Implication in the other. If, moreover, the common Law, the great Charter, and the Bill of Rights, do really, as the Examiner aſſerts, with one Voice declare, that the Inhabitants of the Colonies ought to be taxed *only* by the *Britiſh* Parliament, it is not conſiſtent with that Character of Vigilance, and Jealouſy of their Power, commonly aſcribed to the *Britiſh Parliament*, that, from their firſt regular Settlement to the Reign of *George* III, the *American* Aſſemblies ſhould not only have been ſuffered, without any Animadverſion, without one Reſolve, or even a ſingle Motion to reſtrain Them, to encroach upon the Juriſdiction and Authority of the *Britiſh Parliament*; but that the Parliament ſhould never before the late *Stamp Act*, in one Inſtance, have impoſed an internal Tax upon the Colonies for *the ſingle Purpoſe of Revenue*, and that, even when Acts of Aſſembly paſſed in Conſequence of Miniſterial inforced by royal

royal Requiſitions have been laid before Them, They ſhould be ſo far from objecting to their Validity, as actually to recognize the Authority of the provincial Legiſlatures, and upon that Foundation ſuperſtruct their own Reſolves and Acts.

But though it hath been admitted, that the *Stamp-Act* is the firſt Statute that hath impoſed an internal Tax upon the Colonies *for the ſingle Purpoſe of Revenue*, yet the Advocates for that Law contend, that there are many Inſtances of the Parliament's exerciſing a ſupreme legiſlative Authority over the Colonies, and actually impoſing *internal Taxes* upon their Properties—that the Duties upon any Exports or Imports are internal Taxes—That an Impoſt on a foreign Commodity is as much an internal Tax, as a Duty upon any Production of the Plantations—That no Diſtinction can be ſupported between one Kind of Tax and another, an Authority to impoſe the one extending to the other.

If theſe Things are really as repreſented by the Advocates for the *Stamp* Act, why did * the *Chancellor of the Exchequer* make it a Queſtion for the

* I have preſumed to mention this Fact upon the Authority of private Intelligence, as well as the News Papers, and other Publications; and though the Chancellor of the Exchequer is not named, yet the Fact ſeems in general to be referred to in the Poſtſcript to *the excellent Letter concerning Libels, Warrants, Seizure of Papers, and Security of the Peace*, &c. in the following Words: "Otherwiſe *(i. e.* if it were not right for the Par-
" liament to reſolve general Warrants to be illegal) let me aſk
" how that *momentous* Reſolution touching an *Engliſh* Parlia-
" ment's Right of taxing the Colonies could be juſtified? It
" was an independent ſubſtantive Reſolution, followed by No-
" thing, *(i. e.* that Seſſion) and yet was a Reſolution not only
" of

the Conſideration of the Houſe of Commons, whether the Parliament could impoſe an *internal Tax* in the Colonies or not, for the *ſingle Purpoſe of Revenue?*

It appears to me, that there is a clear and neceſſary Diſtinction between an Act impoſing a Tax for *the ſingle Purpoſe of Revenue*, and thoſe Acts which have been made for the Regulation of Trade, and have produced ſome Revenue *in Conſequence of their Effect* and Operation as *Regulations of Trade.*

The Colonies claim the Privileges of *Britiſh* Subjects—It has been proved to be inconſiſtent with thoſe Privileges, to tax Them *without their own Conſent*, and it hath been demonſtrated that a Tax impoſed by Parliament, is a Tax *without their Conſent.*

The Subordination of the Colonies, and the Authority of the Parliament to preſerve it, have been fully acknowledged. Not only the Welfare, but perhaps the Exiſtence of the Mother Country, as an independent Kingdom, may depend upon her Trade and Navigation, and theſe ſo far upon her Intercourſe with the Colonies, that if this ſhould

" of *extreme Magnitude*, but of the moſt *general* and *higheſt*
" *legal* Nature, involving in it a Deciſion of *the firſt and moſt*
" *fundamental Principles of Liberty, Property, and Government,*
" *and well worthy* alſo, as to the temporary Policy of it, the
" moſt *ſerious* of all Conſideration. This was reſolved too, if I
" am informed right, at the Cloſe of the Night, and the Riſing
" of the Houſe; ſo that every Body muſt have taken it as a
" clear Thing, that They could at any Time come to a Reſo-
" lution upon any general Point of Law, whenever They ſhould
" ſee it *expedient* ſo to do, *ſed Verbum ſapienti ſat eſt.*"

be

be neglected, there would ſoon be an End to that Commerce, whence her greateſt Wealth is derived, and upon which her maritime Power is principally founded. From theſe Conſiderations, the Right of the *Britiſh Parliament* to regulate the Trade of the Colonies, may be juſtly deduced; a Denial of it would contradict the Admiſſion of the Subordination, and of the Authority to preſerve it, reſulting from the Nature of the Relation between the Mother Country and her Colonies. It is a common, and frequently the moſt proper Method to regulate Trade by Duties on Imports and Exports. The Authority of the Mother Country to regulate the Trade of the Colonies, being unqueſtionable, what Regulations are the moſt proper, are to be of Courſe ſubmitted to the Determination of the Parliament; and if an *incidental Revenue* ſhould be produced by ſuch Regulations, theſe are not therefore unwarrantable.

A Right to impoſe an internal Tax on the Colonies, with their Conſent, *for the ſingle Purpoſe of Revenue*, is denied; a Right to regulate their Trade without their Conſent is admitted. The Impoſition of a Duty may, in ſome Inſtances, be the proper Regulation. If the Claims of the Mother Country and the Colonies ſhould ſeem on ſuch an Occaſion to interfere, and the Point of Right to be doubtful, (which I take to be otherwiſe) it is eaſy to gueſs that the Determination will be on the Side of Power, and that the Inferior will be conſtrained to ſubmit *.

The

* In the Reign of our great Deliverer, when the *Engliſh* and the *Dutch* were at War with *France*, They joined in preventing the Northern Powers from carrying on a Trade with the Enemy.

The Writer on the Regulations lately made with Reſpect to the Colonies, who is ſaid to have been *well informed*, aſſerts a Fact, which indiſputably proves, that the Impoſitions mentioned, were *only* Regulations of Trade, and can, with no kind of Propriety, be conſidered in any other Light. The Fact he aſſerts, is, that " the whole Remit-
" tance from all the Taxes in the Colonies, at an
" Average of Thirty Years, has not amounted to
" 1900 *l.* a Year, and in that Sum, 7 or 800 *l.*
" *per Annum* only, have been remitted from *North-*
" *America*; and that the Eſtabliſhment of Officers,
" neceſſary to collect that Revenue, amounts to
" 7600 *l. per Annum.*"

It would be ridiculous indeed to ſuppoſe, that the Parliament would raiſe a Revenue by Taxes in the Colonies to defray Part of the national Expence, the Collection of which Taxes would increaſe that Expence to a Sum more than three Times the Amount of the Revenue; but, the Impoſitions being conſidered in their true Light, as Regulations of Trade, the Expence ariſing from an Eſtabliſhment neceſſary to carry Them into Execution, is ſo far from being ridiculous, that it may be wiſely incurred.

The Author of the Claim of the Colonies, *&c.* gives (as hath been obſerved) the Epithets of *un-*

my. M. *Groning* having formed a Deſign, to prove the Right of the Northern Powers to a free Trade and Navigation, communicated his Plan to and deſired the Opinion of Baron *Puffendorff* upon it, who obſerved that as the Queſtion had not been ſettled upon clear and undeniable Principles, and there was a Mixture of Fact and Right, the Confederates might contend that They have a Right to diſtreſs the Enemy, and, as the Means to attain that Purpoſe, to reſtrain the Trade of the Northern Powers, an Argument that with ſuperior Force would be concluſive.

juſt and *partial*, to a Tax which ſhould be impoſed upon the Non-Electors, only in *Britain*; and, in that very Inſtance, proves, that a Tax upon the Non-Electors in the Colonies, is more unjuſt and partial, and yet undertakes to defend the Juſtice of it; and the Writer on the Regulations of the Colonies declares, that it is in vain to call the Acts He has cited as Precedents, by the Name of mere Regulations, notwithſtanding He hath irrefragably proved, that They are ridiculous, if conſidered in any other Light. (See *The Regulations of the Colonies*, &c. * pag. 105—57, and *The Claim of the Colonies*, &c. pag. 28, 29, 30.)

Though I conceive that the Diſtinction which hath been ſuggeſted, is ſufficiently evident, and that the Argument from Precedents hath been refuted, yet, as there have been two or three Inſtances particularly enforced and relied upon, I muſt beg the Reader's Patience whilſt I examine Them ſeparately, without undertaking the Taſk to remove every Incongruity to be found in the Writings of the Enemies of *America* on this Occaſion; for it would require an *Hercules* to cleanſe the Stable.

The 5th *Geo.* II. it is alledged, "*abrogates ſo* "*much of the Common Law as relates to Deſcents* "*of Freeholds in* America, *takes from the Son the* "*Right of Inheritance in the Lands the Crown had* "*granted to the Father*, and his Heirs in abſolute

* A grave Anſwer to a little pert Pamphlet, called *the Objections to the* Taxation, *&c.* would be too ludicrous. When the Author talks of Orders to be obſerved under Pains and Penalties, he uſes the awful Style of a L———d of T———; but it was too conſtrained for him to ſupport, and he therefore very naturally relapſed into the Character of a Jack-Pudding. He had very little Reaſon to apprehend that *Locke*, *Sidney*, or *Selden*, would be called upon to pull off his—Cap.

" Fee, makes them Aſſets, and applies Them to
" the Payment of Debts and Accounts contracted
" by the Father *without the Participation of the*
" *Son*; it *ſets aſide* the Sort of Evidence required
" by the Common Law, and *eſtabliſhed by every*
" *Court of Juſtice in* America, in Proof of a Debt,
" and enjoins the Admiſſion of an *ex Parte Affi-*
" *davit.* The Power of Parliament having been
" exerciſed *to take away the Lands of the People in*
" America, the moſt *ſacred* Part of any Man's
" Property, and *diſpoſing of Them for the Uſe of*
" *private Perſons Inhabitants of* Great-Britain, who
" can queſtion," ſays the Examiner, " the Parlia-
" ment's Right to take away a *ſmall* Part of the
" Products of thoſe Lands, and apply it to the
" *public Service?*"

It is very obſervable, that in applying this Statute, a Language is made uſe of, which gives the Idea of Violence; and it muſt be confeſſed, that great Aggravation of Features, and ſtrong Colouring, were neceſſary, to make it in any Degree reſemble the Impoſitions of the *Stamp-Act.*

It would be uſeleſs, as well as tedious, to point out every Miſrepreſentation in this Application, ſince that it will be effectually done, by briefly ſhewing the Effect of the 5th *Geo.* II. and ſuggeſting the Occaſion of making that Statute.

Lands, Negroes, *&c.* in the Plantations, are made Aſſets for the Satisfaction of all Debts owing to his Majeſty, or *any of his Subjects*, in like Manner as Real Eſtates are, by the Law of *England* liable to the Satisfaction of Debts due by Specialty.

If

If the Creditor reſides in *Great-Britain*, the Affidavits of his Witneſſes taken there, are to be allowed as Evidence, and to have the ſame Force their Teſtimony would have, if given, *vivâ Voce*, in open Court.

The Evidence mentioned in the Statute, prevailed in moſt, if not all the Colonies, before the Statute, and Lands were alſo liable to the Satisfaction of all Debts in moſt Inſtances, by the Method practiſed alſo in the Court of Chancery in *England*, of marſhalling Aſſets. In ſome of the Colonies, without this Circuity, Lands were immediately liable to ſimple Contract Debts.

Independent of the Statute, when the Creditor obtains a Judgment againſt his Debtor, *all* his Lands, *&c.* over which he has a *diſpoſing* Power, are liable, and, ſince the Statute, only *ſuch* Lands, *&c.* are Aſſets, as the Debtor had a Power to diſpoſe of. It appears then, that all the Effect of the Statute on this Head, is to ſubject Real Eſtates to the Payment of Debts *after* the Death of the Debtor, (for the moſt Part, the Caſe before the Statute) which might have been made Subject *before* his Death.

In many of the Colonies, the provincial Creditors of the deceaſed Debtors, were preferred to the *Britiſh*, in the ſame Degree, by Acts of Aſſembly which carried the Appearance of Partiality; tho' in Fact, the Effect of the Laws of *England* gave riſe to Them; for, upon Bankruptcies in *Great-Britain*, the Steps required by the Statutes to entitle Creditors to a Satisfaction, effectually exclude Colony Creditors in moſt Caſes, and their Diſtance, when their Debtors die in *Great-Britain*, where Colony Creditors have not ſtanding Agents as the

Merchants have in the Plantations, and there happens a Deficiency of Aſſets, ſhuts them out likewiſe from all Chance of Satisfaction in the uſual Scramble among Creditors for the Debtor's Eſtate on ſuch Events.

In ſome of the Colonies They changed, by Acts of Aſſembly, certain Species of perſonal Property, *e. g.* Negroes, into the Nature of real Eſtates, by making Them deſcendible; and, by this Alteration of the Common Law, and Confuſion of the former Diſtinction of Property, very conſiderably diminiſhed the perſonal Fund, liable to *all* Debts.

As theſe Circumſtances were repreſented and believed to be great Diſcouragements to the Trade of the Mother Country, after repeated Requiſitions to provide a Remedy in the Colonies, in which the Grievance was moſt ſenſibly felt, had been diſregarded, the Statute was finally made.

This was, without Doubt, a Subject upon which the Superintendence of the Mother-Country might be juſtly exerciſed; it being relative to her Trade and Navigation, upon which her Wealth and her Power depend, and the Preſervation of her Superiority, and the Subordination of the Colonies, are ſecured, and therefore is comprehended in the Diſtinction.

After citing, and applying this Statute, the Examiner takes Occaſion to inſult a Gentleman of a moſt amiable and reſpectable Character, becauſe he preſumed, it ſeems, to queſtion the Univerſality of Parliamentary Power, and appears to be ſo totally occupied in the Buſineſs of Defamation, as not to be aware of his running into the moſt egregious

gious Inconſiſtencies. If the Examiner is a Lawyer, he has betrayed the moſt ſhameful Ignorance; if an Agent, the moſt infamous Unfaithfulneſs. Had the *American Chief Juſtice* acted in *England*, as too many of his Countrymen have done—Had He paid his Court to Power, by mean Compliances, and endeavoured to recommend himſelf, by inventing Accuſations againſt the Colonies, by repreſenting the Inhabitants in Them, as a refractory, diſloyal, and rebellious People, and by propoſing Schemes for their Depreſſion—Had he not firmly maintained his Character of Honour and Probity, we ſhould not have ſeen this Impeachment of his Underſtanding; but he left the Taſk of Proſtitution to the Man of ſordid Views,

Ille ſuperbos Aditus Regum,
Duraſq; fores, expers Somni
Colat ———

"Had the Colonies," ſays the Examiner, "agreed to the Impoſition of the Stamp-Duties, "a Precedent would have been eſtabliſhed for "their being conſulted, before any Impoſition "upon Them by Parliament would hereafter take "Place." He intimates that They were adviſed by ſome of their Agents to take this Courſe: If ſuch Advice hath been given, it was weak or inſidious, and the Agents, who recommended the Meaſure, ought to be removed for their Incapacity or their Treachery.

How would the Precedent have been eſtabliſhed, or, if it had, what would have been the Advantage? This Conduct would have admitted, that the Colonies might be taxed at any Time, and in any Manner, without their Conſent; and conſe-

conſequently, would at once have been an effectual Surrender of all their Privileges as *Britiſh* Subjects.

If Precedents were to be regarded, when a Tax in *America*, for the *ſingle Purpoſe of Revenue* is required, they are not wanting. Upon ſuch Occaſions, the Courſe hath always, and uniformly been, 'till the Impoſition of the Stamp-Duties, to tranſmit Requiſitions to the Colonies; and, if the Inſtance cited by the Examiner, is in any Degree pertinent, he has ſhewn in his Appendix, that the Method of Requiſition was in *that* purſued; for, the Lords of Trade, in their Report, expreſsly mention the Refuſal of the Colonies to comply with the Requiſitions tranſmitted to them, to remove the Grievance complained of.

The Clauſe in the Mutiny Act during the late War is alſo relied upon, but with how much Propriety, few Words will evince.

The Acts of Aſſembly of each Colony, could have no obligatory Force beyond the Limits of each; but the Service of the Colony Troops, was not confined within the ſame Colony in which They were raiſed; it is therefore evident that the Provincial Legiſlatures had not an Authority adequate to the great Object of the military Operations in *America*, which was not merely the Defence of the Plantations, by Meaſures executed within their Boundaries, but the Enemy was attacked in his own Country, and for this Purpoſe the *Britiſh* and *American* Troops acted conjunctly. On this Occaſion it was not only convenient, that the Troops employed in the ſame Service, ſhould be ſubject to the ſame Diſcipline, but it was indiſpenſably

penſably neceſſary that this Diſcipline ſhould be eſtabliſhed by *Act of Parliament*, the Authority of *Provincial Legiſlatures* being deemed to be incompetent. And it is to be remarked, moreover, that the Provincial Troops were raiſed and paid by the Colonies, and that it was in the Power of their Aſſemblies, a Power exerciſed by ſome of Them, to diſband or reduce Them when They pleaſed, and therefore their ſupporting and keeping them up, was an effectual Conſent to the Act of Parliament; but, as hath been ſhewn, an internal Tax may be as compleatly and adequately laid in every Colony, by the Authority of the *reſpective Aſſemblies*, as by the *Britiſh Parliament*, and therefore there is not the ſame Neceſſity for the Interpoſition of the Mother Country in this, as in the other Inſtance, and the Colonies with Reference to the Stamp-Act, are not called upon to do any Act expreſſive of their Aſſent to it, nor is it in their Power to hinder it's taking Effect in the fulleſt Extent.

The Act for *the Eſtabliſhment of a Poſt-Office in the Colonies* (9 *Anne*, c. 10.) comes the neareſt to the Subject of any Regulation that hath been mentioned; but yet it is materially diſtinguiſhable from the Stamp-Act. For the ſame Reaſon that an Act of Parliament was neceſſary to ſecure the Diſcipline of the Provincial Troops, acting in Conjunction with the *Britiſh* Forces, during the late War, the Authority of Parliament might be proper for the general Eſtabliſhment of a regular Poſt-Office; for as the Laws of each Colony are in their Operation confined within the Limits of each, prohibitory and compulſive Clauſes to inforce a general Obſervance, without which the Eſtabliſhment would fail, might be eluded. If a Man ſhould maliciouſly give a Wound in one Colony, and the wounded

wounded Perſon die in another, the Offender could not be convicted of Murder, becauſe the whole Fact conſtituting that Crime, would not be cognizable in the Colony where the Wound was given, or the Death happened; and the ſame Principle is applicable to every other inferior Offence, and intimates in what Manner prohibitory Clauſes might be evaded. This Matter therefore of the Poſt-Office, may be referred to the general Superintending Authority of the Mother-Country, the Power of the Provincial Legiſlatures being too ſtinted to reach it. In this View, and upon the Conſideration of the general Convenience and Accommodation ariſing from the Eſtabliſhment, the People of *America* have not complained of it, but if this Inſtance were more pertinent than it is, it would only prove what hath been too often proved before—When Men do not ſuſpect any Deſigns to invade their Rights, and ſubdolous Steps taken to that End, are productive of immediate Convenience without pointing out their deſtructive Tendency, They are frequently involved in Ruin before they are aware of Danger, or that the Conduct flowing from the Negligence of innocent Intentions, may afford an Handle to Men of different Diſpoſitions, for the Commiſſion of Oppreſſion—Of the Truth of theſe Obſervations the Hiſtories of all People who have once been bleſſed with Freedom, and have loſt it, exhibit abundant Examples.

When Inſtances are urged as an authoritative Reaſon for adopting a new Meaſure, They are proved to be more important from this Uſe of Them, and ought therefore to be reviewed with Accuracy, and canvaſſed with Strictneſs. What is propoſed ought to be incorporated with what hath been done, and the Reſult of both ſtated

and conſidered as a ſubſtantive original Queſtion, and if the Meaſure propoſed is incompatible with the conſtitutional Rights of the Subject, it is ſo far from being a rational Argument, that Conſiſtency requires an Adoption of the propoſed Meaſure, that, on the contrary, it ſuggeſts the ſtrongeſt Motive for aboliſhing the Precedent: when therefore an inſtance of *Deviation* from the Conſtitution is preſſed as a Reaſon for the *Eſtabliſhment* of a Meaſure ſtriking at the very Root of all Liberty; though the Argument is inconcluſive, it ought to be uſeful.

Wherefore if a ſufficient Anſwer were not given to the Argument drawn from Precedents, by ſhewing that none of the Inſtances adduced are applicable, I ſhould have very little Difficulty in denying the Juſtice of the Principle on which it is founded. What hath been done, if wrongful, confers no Right to repeat it. To juſtify Oppreſſion and Outrage, by Inſtances of their Commiſſion, is a kind of Argument which never can produce Conviction, though it may *their* Acquieſcence, whom the Terror of greater Evils may reſtrain from reſiſting, and thus the Deſpotiſm of the Eaſt may be ſupported, and the natural Rights of Mankind be trampled under Feet. The Queſtion of Right, therefore, doth not depend upon Precedents, but on the Principles of the Conſtitution, and hath been put upon it's proper Point already diſcuſſed, whether the Colonies are repreſented, or not, in Parliament.

As the Name of *Hampden* occurred to the Examiner in his Deſign of caſting an oblique Reflection upon the Colonies, it is ſurpriſing he did not recollect, that very numerous Precedents have

been applied in the Defence of an arbitrary and oppreſſive Proceeding, deſtructive of the eſſential Principle of *Engliſh* Liberty. But though meer Acts of Power prove no Right, yet the real Opinion entertained of it, may be inferred from Forbearance; for Mankind are generally ſo fond of Power, that they are oftner tempted to exerciſe it beyond the Limits of Juſtice, than induced to ſet Bounds to it from the pure Conſideration of the Rectitude of Forbearance. Wherefore if I had denied the Principle of this Kind of Reaſoning, without ſhewing the Defects of the artificial painted Precedents which have been produced, I might ſtill very conſiſtently urge, that, the repeated and uniform Requiſitions of the *Engliſh* Miniſters, as often as Occaſions for the *ſingle Purpoſe of Revenue* have happened, tranſmitted to the Colonies to tax Themſelves by Provincial Acts, and the Acts of Parliament regulating the Trade of the Plantations, as well as of *Ireland*, without one Inſtance, before the Stamp-Act, of a Tax impoſed by Parliament upon either, for the *unmixed* Purpoſe of Revenue, prove, that the Impoſition of a Tax upon them without their Conſent, hath conſtantly been held to be inconſiſtent with their Conſtitutional Rights and Privileges. I have joined *Ireland* with the Colonies, and preſume it will hardly be contended that *Ireland*, over which the Courts of Juſtice in *England* have a ſuperintendant Power, is not, at leaſt, as ſubject to *Great-Britain* as the Colonies are.

A moſt extraordinary Reaſon hath been given, why the Method of Requiſition would have been improper, *viz.* that " the Sums raiſed muſt be " paid unto the Exchequer, and if levied by the " Provincial Aſſemblies, the Parliament would " have no Right to enquire into the Expenditure " of

" of them." This is ſo extremely futile, that it would be almoſt abſurd to beſtow a ſerious Refutation upon it.

Why muſt the Sums raiſed be paid into the Exchequer? If the Intention is to apply them in the Colonies to any internal Purpoſe, why muſt they be remitted to *Great-Britain?* If Armies are to be kept up in *America*, to defend the Colonies againſt *Themſelves*, (for it can hardly be imagined that Troops are neceſſary for their Protection againſt any foreign Enemy) or are to be employed in the national Service of Cropping the Ears, and Slitting the Noſtrils of the Civil Magiſtrates, as Marks of Diſtinction *, why muſt the Money be paid into the Exchequer? Or, if it ſhould be paid into the Exchequer, in order to be applied towards ſinking the national Debt, why might not the Parliament enquire into the Application of it? Does the Examiner, in his Idea of the Parliament, figure to himſelf a Monſter with an Hand that can reach to the utmoſt Verge of the *Britiſh* Dominions, and clutch and cruſh Millions of Subjects at a Gripe; but, when the Object is near, apt to be rendered, by ſome magical influence, ſo ſhort, and ſo feeble, as not to be able to reach the *Exchequer*, or to ſqueeze the *Chancellor* of it?

We are aſſured that there never can be any irregular " Attempts of the Prerogative upon our " Rights, whilſt we are bleſſed with a Prince of the " glorious Line of *Brunſwick* upon the Throne of " *Great-Britain.*" I have all the confidence in the excellent Diſpoſitions of our preſent moſt gracious Sovereign that an *Engliſhman* ought to have, but I can't penetrate into Futurity; and, as the

* See the Narrative of the Outrages committed by the Soldiery, on Mr. Juſtice *Walker* in *Canada*.

Examiner hath not yet eſtabliſhed the Character of a Prophet, I muſt conſider this Aſſertion rather as a curious Specimen of Lip-Loyalty, I will not call it extravagant Adulation, than as a ſober Recommendation, to ſurrender all thoſe Guards and Securities of Liberty, which the Conſtitution of a Free Government hath provided; but, if the *Britiſh Americans* ſhould ever be reduced to the unhappy Neceſſity of giving up their Natural Rights, and their Civil Privileges, I believe They would as ſoon make the Surrender to a Prince of the *Line of Brunſwick*, as to any other Mortal, or Number of Mortals, in the Univerſe.

We have ſeen too a Piece in ſome of our late News-Papers, all bedawbed with the Lace of Compliment.——There is no End to human Ambition! It is perpetually reſtleſs, and puſhing forward. If a little P—ſt—r † is raiſed to the Title of Excellency, and the Rank of a Kind of Viceroy, there is ſtill a Summit beyond the Eminence to which he hath been elevated, that he is ſollicitous to gain.

It hath been truly ſaid, that "it will be no eaſy "Taſk to perſuade the *Americans* to forſake the "Culture of their Lands, to leave the Ways their "Fathers trod, and in which Themſelves were "trained, to drop a Buſineſs they already underſtand, in which they have had long Experience, "and by which their Families have thriven, to "change all their Habits of Thinking, and their "Manner of Life, in order to apply to Arts "which they do not know, or know but imper-

† A late notable Speech puts me in Mind of the Ingenuity of the Female Diſputant, who uſed to ſilence Debate, by crying out, *God bleſs the King, and what have you to ſay to that?*

"fectly,

" fectly, and that where Eſtates may be eaſily " raiſed by mere Tillage, the Temptations to " Manufacture are wanting, and Men, who can " depend upon their Induſtry alone, will not have " Recourſe to Arts for Subſiſtence." But that which Perſuaſion might not effect, and to which peculiar Circumſtances might be adverſe, Neceſſity, and an Alteration of thoſe Circumſtances, may accompliſh. When the Alternative is propoſed, and the one Part of it aſſures Succeſs, and a comfortable Support by a moderate Application of Induſtry, familiarized by Uſe, and rendered eaſy by Practice; and the other affording only an Experiment of precarious Iſſue, calling for an Application unexperienced and dreaded, attended with Perplexity, and productive of irkſome Anxiety, the Generality of Mankind would not heſitate in chuſing the former. But, though it would gain the Preference of Choice, yet, if the Alternative is taken away, and Choice yields to Neceſſity, the Enterprizing will form Projects, the Judicious improve, the Induſtrious execute them. Succeſs in one Inſtance, will animate the timid to make Trial of the Means which have ſucceeded under the Direction of others, ſtimulate the Phlegmatic, and rouſe the Indolent—Should the Neceſſity, after a little Time, ceaſe, new Habits may become as ſtrong as the old, and the Alternative would therefore be altered, the Choice be an Act of Deliberation, rather than of blind Impulſe; old Prejudices would be greatly abated, if not extinguiſhed, new Attachments, perhaps, be formed. From this Change, different Conſequences may be conjectured or foretold, and perhaps the moſt Confident might be diſappointed by the Event. It is not ſo difficult for Men to ſtrike into new Employments and Methods of Life,

when impelled by the Urgency of Diſtreſs, nor ſo eaſy to call them back to their old Manner of Life, and divert them from new Purſuits experienced to be profitable, and *productive of the beſt Security againſt Oppreſſion*, as ſome ſeem to apprehend.

It is not contended that the Colonies ought to be indulged in a general Liberty of Exporting and Importing every Thing in what Manner they pleaſe; but, ſince they are hindered from making all the Advantages they might do, and what Advantages might they not make, if under no Checks? They have a good Plea againſt all Rigour and Severity, not abſolutely neceſſary. That *Britiſh* Manufactures come dearer, and not ſo good in Quality to *America*, as formerly, is a very general Complaint; and what Effect it may have, ſhould they ſtill grow dearer and worſe in Quality, or the Colonies be rendered leſs able to conſume them, is a Conſideration which concerns *Great-Britain*, at leaſt as much as the Colonies. An Increaſe of Price, and falling in the Goodneſs of Quality, is the uſual Effect of Monopolies; there is no Danger of Foreigners taking Advantage of this Circumſtance in *America*, whatever they may do in other Countries; but the Induſtry it may give Riſe to in *America*, when other Circumſtances concur, is not difficult to be foreſeen.

It muſt be acknowledged, that the Balance of Trade between *Great-Britain* and her Colonies, is conſiderably againſt the latter, and that no Gold or Silver Mines have yet been diſcovered in the old *American* Settlements, or among the *Treaſures* of the new Acquiſitions. How then is this Balance to be diſcharged? The former Trade of the Co-

Colonies, which enabled them to keep up their Credit with *Great-Britain*, by applying the Balance they gained againſt Foreigners, is now ſo fettered with Difficulties, as to be almoſt prohibited. In order therefore to reduce the Balance againſt them upon the Trade between the Colonies and *Great-Britain*, this Trade muſt be contracted, ſo as to bring the Scales to an Equilibrium, or a Debt will be incurred that cannot be paid off, which will diſtreſs the Creditor as well as the Debtor, by the Inſolvency of the latter. The Income alſo of the Colonies, which was before inveſted in their Trade, will be diminiſhed in Proportion to the Produce of the Stamp-Act, and therefore the Amount of that Produce muſt be drawn out, which will create a further Reduction of the Trade.

I confeſs that I am one of thoſe who do not perceive the Policy in laying Difficulties and Obſtructions upon the gainful Trade of the Colonies with Foreigners, or that it even makes any real Difference to the *Engliſh* Nation, whether the Merchants who carry it on with Commodities *Great-Britain* will not purchaſe, reſide in *Philadelphia*, *New-York*, or *Boſton*, *London*, *Briſtol*, or *Liverpool*, when the Balance gained by the *American* Merchant in the Purſuit of that Trade centers in *Great-Britain*, and is applied to the Diſcharge of a Debt contracted by the Conſumption of *Britiſh* Manufactures in the Colonies, and in this to the Support of the national Expence.

If in Conſequence of the Obſtructions, or Regulations as they are called, of their Commerce, and the Impoſition of Taxes upon their Properties, the Colonies ſhould only be driven to obſerve

ſerve the ſtricteſt Maxims of Frugality, the Conſequence would rather be diſagreeable than hurtful ——Should they be forced to uſe new Methods of Induſtry, and to have Recourſe to Arts for a Supply of Neceſſaries, the Difficulty in Succeeding would prove leſs than the Apprehenſion of Miſcarrying, and the Benefit greater than the Hope of it. There are few People of the higheſt, and even of the middle Rank, but would, upon a ſtrict Scrutiny into their ordinary Diſburſements, diſcover ſome Articles that would admit of Defalcation.

A prudent Man, conſtrained to abridge his Outgoings, will conſider what Articles of Expence may be retrenched or given up, without Diſtreſs or Diſcomfort; and if, after this ſaving, he ſtill finds that his Expences exceed his Income, he will then conſider of what Articles he can provide a Supply by the Application of domeſtic Induſtry, or whether ſome tolerable Subſtitute may not be fallen upon to anſwer the Purpoſe of what he can neither buy, nor hath Skill or Ability to fabricate. He will reflect that the Expedient which is at firſt but an indifferent Shift, Uſe and Experience will improve into Convenience, that Practice will confer Knowledge and Skill, and theſe Facility and Satisfaction; and though the Progreſs ſhould be ſlow and gradual, Habit will grow with it, and produce Reconcilement and Content.

What are called in *North-America*, Luxuries, ought for the moſt Part to be ranked among the Comforts and Decencies of Life, but theſe will not be relinquiſhed, if a Supply of Neceſſaries may be provided by domeſtic Induſtry——For Food,

Food, thank GOD, They do not, and for Raiment They need not, depend upon *Great-Britain*.

Any thin Covering in the Summer to preſerve Decency, and ſubſtantial Cloathing in the Winter to repel the Cold, are ſufficient for domeſtic Servants and Labourers, and theſe may be provided without any Remora to the Buſineſs of Tillage, for there are many Intervals in which it is ſuſpended. There are Times too, when the Employment is ſo ſlight as to be rather a moderate Exerciſe, than a laborious Taſk, when the Work that is done might be performed by half the Number of Labourers without exceſſive Exertion, or exhauſting Fatigue. There are beſides in moſt Families thoſe, whom the Feebleneſs of immature Years, or their Sex, at particular Periods, or the Decrepitude of old Age, diſcharge from the Duties of Tillage. Leather, and Wool, and Cotton, and Flax, are at Hand: How eaſy then is the neceſſary Cloathing provided for thoſe whoſe Station does not require any Attention or Regard to Faſhion, or Elegance? ſo eaſy, that many have already gone into this Manufacture without any other Impulſe, than the Spirit of Induſtry, which cannot bear Inaction, though the Savings on this Head have afterwards been neglected. In this very conſiderable Branch ſo little Difficulty is there, that a Beginning is Half the Work. The Path is beaten, there is no Danger of loſing the Way, there are Directors to guide every Step. But why ſhould they ſtop at the Point of cloathing Labourers, why not proceed, when Vigour and Strength will increaſe with the Progreſſion, to cloath the Planters? When the firſt Stage is arrived at, the Spirits will be recruited, and the ſecond ſhould be undertaken with Alacrity, ſince it

may be performed with Eaſe. In this too, the Experiment hath been made and hath ſucceeded. Let the Manufacture of *America* be the Symbol of Dignity, the Badge of Virtue, and it will ſoon break the Fetters of Diſtreſs. A Garment of Linſey Woolſey, when made the Diſtinction of real Patriotiſm, is more honourable and attractive of Reſpect and Veneration, than all the Pageantry, and the Robes, and the Plumes, and the Diadem of an Emperor without it. Let the Emulation be not in the Richneſs and Variety of foreign Productions, but in the Improvement and Perfection of our own—Let it be demonſtrated that the Subjects of the *Britiſh* Empire in *Europe* and *America* are the ſame, that the Hardſhips of the latter will ever recoil upon the † former.

In Theory it is ſuppoſed that each is equally important to the other, that all partake of the Adverſity and Depreſſion of any. The Theory is juſt, and Time will certainly eſtabliſh it; but if another Principle ſhould be ever hereafter adopted in Practice, and a Violation deliberate, cruel, ungrateful, and attended with every Circumſtance of Provocation, be offered to our fundamental Rights, why ſhould we leave it to the ſlow Advances of Time

† Upon a Surmiſe that a certain noble L—d, was the Author of ſome Hardſhips inflicted upon the Colonies, a reproachful and miſchievous Diſtinction hath been made by ſome People, between the Natives of *S—t——d*, and of *E—g——d* and *America*, which every judicious Friend of the Colonies muſt wiſh to ſee aboliſhed, and an *Union* rather eſtabliſhed than Diviſions promoted. Every Man who has his all, and the Welfare of his Poſterity at Stake, upon the Proſperity of *America*, at he hath an Intereſt in common with the Natives of it, ought to be conſidered as an *American*.——It is an effectual Way to make Men Adverſaries, to call and treat Them as ſuch——Beſides, laying aſide this Conſideration, the Diſtinction is extremely

Time (which may be the great Hope and Reliance, probably, of the Authors of the Injury, whoſe View it may be to accompliſh their Selfiſh Purpoſes in the Interval) to prove what might be demonſtrated immediately. — Inſtead of moping, and puling and whining to excite Compaſſion; in ſuch a Situation we ought with Spirit, and Vigour, and Alacrity, to bid Defiance to Tyranny, by expoſing its Impotence, by making it as contemptible, as it would be deteſtable. By a vigorous Application to Manufactures, the Conſequence of Oppreſſion in the Colonies to the Inhabitants of *Great-Britain*, would ſtrike Home, and immediately. None would miſtake it. Craft and Subtilty would not be able to impoſe on the moſt ignorant and credulous; for if any ſhould be ſo weak of Sight as not to See, they would not be ſo callous as not to Feel it.—Such Conduct would be the moſt dutiful and beneficial to the Mother Country. It would point out the Diſtemper when the Remedy might be eaſy, and a Cure at once effected by a ſimple Alteration of Regimen.

Of this Meaſure ſhould there be Apprehenſions, and Miniſterial Orators and Panegyriſts endeavour

tremely unjuſt; for though there is too much Reaſon to believe that ſome Natives of *America*, and of *E—g——d*, who have reſided in the Colonies, have been inſtrumental in bringing upon Us the Severities We deplore, yet hath it never been even ſurmiſed, I ſpeak it to their Honour, that any Native of *S—t—d* reſiding, or that ever did reſide in *America*, had in any Degree a Hand in them. It is much to be feared, if the Breach which a too eager Proſecution of the little Views of Party, hath made among the Inhabitants of a Colony heretofore the moſt diſtinguiſhed for Prudence and Unanimity, ſhould not be cloſed, in Conſideration of the General Calamity, that *America* as well as *Denmark*, will furniſh an Inſtance of the exceſſive Temerity of political Animoſity.

to obviate them by obſerving, that " it would " always be eaſy to reinſtate Things where they " were, and that by eaſing the Colonies of their " Burthens, and giving Encouragement to their " Produce, the Eſtabliſhment of any Manufac- " ture in *America* might be prevented :" We ſhould mark well this Reaſoning, and avail ourſelves of the Inſtruction given by our Enemies, which would point out to Us the Remedy, and the more ſpeedy the Application of it the better, and that would depend upon ourſelves.

Beſides the Urgency of ſuch an Occaſion (ſhould it happen) there would be another powerful Inducement to this ſimple, natural eaſy Method— The good or bad Succeſs of one Attempt to oppreſs, generally produces or prevents future Impoſitions. In common Life a Tameneſs in bearing a Deprivation of Part of a Man's Property, encourages Rapacity to ſeize the reſt.

Any Oppreſſion of the Colonies, would intimate an Opinion of them I am perſuaded they do not deſerve, and their Security as well as Honour ought to engage them to confute. When Contempt is mixed with Injuſtice, and Inſult with Violence, which is the Caſe when an Injury is done to him who hath the Means of Redreſs in his Power; if the injured hath one inflammable Grain of Honour in his Breaſt, his Reſentment will invigorate his Purſuit of Reparation, and animate his Efforts to obtain an effectual Security againſt a Repetition of the Outrage.

If the Caſe ſuppoſed ſhould really happen, the Reſentment I ſhould recommend would be a legal, orderly, and prudent Reſentment, to be expreſſed in

in a zealous and vigorous * Induſtry, in an immediate Uſe and unabating Application of the Advantages we derive from our Situation—a Reſentment which could not fail to produce Effects as beneficial to the Mother Country as to the Colonies, and which a Regard to her Welfare as well as our own, ought to inſpire us with on ſuch an Occaſion.

The General Aſſemblies would not, I ſuppoſe, have it in their Power to encourage by Laws, the Proſecution of this beneficial, this neceſſary Meaſure; but they might promote it almoſt as effectually by their Example. I have in my younger Days ſeen fine Sights, and been captivated by their dazzling Pomp and glittering Splendor; but the Sight of our Repreſentatives, all adorned in compleat Dreſſes of their own Leather, and Flax, and Wool, manufactured by the Art and Induſtry of the Inhabitants of *Virginia*, would excite, not the Gaze of Admiration, the Flutter of an agitated Imagination, or the momentary Amuſement of a tranſient Scene, but a calm, ſolid, heart-felt Delight. Such a Sight would give Me more Pleaſure than the moſt ſplendid and magnificent Spectacle the moſt exquiſite Taſte ever painted, the richeſt Fancy ever imagined, realized to the View —as much more Pleaſure as a good Mind would receive from the Contemplation of Virtue, than

* The ingenious Mr. *Hume* obſerves in his Hiſtory of *James* I, that the *Engliſh* fine Cloth was in ſo little Credit even at Home, that the King was obliged to ſeek Expedients by which he might engage the People of Faſhion to wear it, and the Manufacture of fine Linen was totally unknown in the Kingdom—What an Encouragement to Induſtry! This very penetrating Gentleman alſo recommends a *mild Government*, as a proper Meaſure for preſerving the Dominion of *England* over her Colonies.

of

of Elegance; of the Spirit of Patriotiſm, than the Oſtentation of Opulence.

Not only, "as a Friend to the Colonies," but as an Inhabitant having my All at Stake upon their Welfare †, I deſire an "Exemption from Taxes "impoſed *without my Conſent*, and" I have reflected longer than "a Moment upon the Conſequences:" I value it as one of the deareſt Privileges I enjoy: I acknowledge Dependance on *Great-Britain*, but I can perceive a Degree of it without Slavery, and I diſown all other. I do not expect that the Intereſts of the Colonies will be conſidered by ſome Men, but in Subſerviency to other Regards. The Effects of Luxury, and Venality, and Oppreſſion, Poſterity may perhaps experience, and SUFFICIENT FOR THE DAY WILL BE THE EVIL THEREOF.

† See *The Regulations*, &c. Page 111.

APPEN-

APPENDIX.

BY the 12th *Charles* II, the Colonies are reſtrained from ſending the Products enumerated in the Act to *any foreign* Ports.—By the 15th of the ſame King, they are prohibited from importing Commodities of the Growth or Manufacture of *Europe*, *except from* GREAT-BRITAIN, ſaving a few Articles mentioned in this Act.

A Law, which reſtrains one Part of the Society, from *exporting* its Products to the moſt profitable Market, *in favour of another*; or obliges it to *import* the Manufactures of one Country that are dear, inſtead of thoſe of another that are cheap, is effectually a Tax. For if the profitable *Exportation*, and the *Importation* of the cheaper Commodities were permitted, a Tax equal to ſuch Gain in the former Caſe, and to the Saving in the latter, would leave that Part of the Society in the ſame State and Condition, as if under the Prohibition and Reſtriction above-mentioned. As for Inſtance, in the Caſe of *Importation*.——Suppoſe a Country which I will diſtinguiſh by the Name of A, can purchaſe Commodities of the ſame Kind, and equal Goodneſs, 20 per Cent. cheaper of B, than ſhe can of C;—then it is clear, if A is prohibited from taking theſe Commodities of B, and obliged to purchaſe them of C, that A is juſt in the ſame State and Condition, as if ſhe were allowed to purchaſe the Commodities of B, on paying thereon a Duty of 20 per Cent to C.——This In-

Inſtance, *mutatis mutandis*, is equally applicable to the Caſe of *Exportation*. Hence it appears, that the Country favoured by the Prohibition and Reſtriction, gains as much thereby, as it would do, if the proportionate Tax were paid to it, upon taking off the Prohibition and Reſtriction; or, in other Words, the Profit which the one is hindered from making, in Conſequence of the Prohibition and Reſtriction, is made by the other, in whoſe favour they have been introduced.

It hath been obſerved by a well-received Writer on the Subject of Trade, that "a Prohibition acknowledges the Commodities it is laid on, to be good and cheap, otherwiſe it were needleſs; and a Prohibition on the Goods of any one Nation, gives a Monopoly to other Nations, that raiſe the like."—Again—"A Prohibition againſt any one Nation, makes other Nations, having the like Commodities, take the Advantage and raiſe their Price, *and is therefore a Tax* †."

If a Prohibition, extending to one Nation only in favour of many, confers a Monopoly, and is therefore a Tax; a Prohibition extending to all other Nations in favour of one, is indubitably ſo.

From *Virginia* and *Maryland* are exported, *communibus Annis*, 90,000 Hogſheads of Tobacco to *Great-Britain*, of which it is ſuppoſed 60,000 are thence re-exported. But theſe Colonies not being permitted to ſend their Tobacco *immediately* to foreign Markets *diſtributively*, in proportion to their Demands, the re-exported Tobacco pays double Freight, double Inſurance, Commiſſion and other Shipping Charges. The whole Quantity is, moreover, of Courſe much depreciated; for going all to *Great-Britain*, the *Home-Market* is overdone, by

† Sir *Matthew Decker*.

which

which Circumſtance, the Quantity required for *Home Conſumption* is without Doubt purchaſed cheaper than it would be, if no more than *that* were imported into *Great-Britain*, and of this Glut Foreigners, and Purchaſers on Speculation alſo, avail themſelves. Beſides, a great deal of the Tobacco getting home late, the rigorous Seaſon hinders it's being re-ſhipped for ſome Months, during which, it is dead on Hand, and moreover gives Advantage to Buyers—a Loſs to the Planter, which would be avoided, if the Tobacco could be immediately ſent to it's proper Market.——

The above quoted Author hath computed the Duties, Exciſes, *&c.* on Leather, at 50 per Cent. and the Artificial Value of a Bale of *Engliſh* Cloth ariſing from Taxes, Monopolies and ill-judged Laws at 51 per Cent. by which, he means that every Hundred Pounds Worth of that Species of Manufacture, includes in that Sum 51 *l.* of Taxes. His Computation is, without Doubt, too low now, Taxes having been increaſed very conſiderably ſince the Time in which he wrote.

	per Cent.
In the groſs Sum of the artificial Value, he computed the Amount of the Taxes to be full - - -	31
Monopolies and ill-judged Laws, therefore ſtand at - - - -	20
	51

	£.
A Bale of *Engliſh* Cloth coſting - -	100
Includes an artificial Value of - - -	51
The artificial Value ſubſtracted, leaves the natural Value - -	49

But leſt the Eſtimate ſhould be objected to on account of it's including 20 per Cent. for Monopolies, *&c.* I will ſtate the artificial Value ariſing from Taxes, *only* to be *33 l. 6 s. 8 d.* which will hardly be objected to, for being too high.

The Colonies, it is ſuppos'd, take, annually, Manufactures from *Great-Britain*, to the Amount of	£. 2,000,000
Therefore they pay an ANNUAL TAX of - - - -	£. 666,666: 13: 4
To which muſt be added Freight, Inſurance, Commiſſion and Shipping Charges, amounting at leaſt to 10 per Cent. the Half of which, as it might be ſaved by back-freight, *&c.* were the Colonies permitted to import *directly* the Manufactures of foreign Countries, is computed at -	100,000: 00: 0
What may be the Amount from the Reſtrictions, on all the Enumerated Commodities (except Tobacco) exported from all the Colonies, with Subſidies retained and Duties laid, upon the moſt moderate Computation may, I ſuppoſe, be ſtated at - -	150,000: 00: 0
	£. 916,666: 13: 4

Part of the Commodities ſent from *Great-Britain* to the Colonies, is firſt imported into *Great-Britain* from

from *foreign* Countries; but the Eſtimate is not exceptionable on that Account, for the general Calculation on the advanced Price of *Britiſh* Manufactures, is extremely low.—Several of the foreign Commodities receive their Perfection in *Britain.*——All of them are enhanced by the Articles of double Freight, Inſurance, Shipping, Charges, the Merchant Importer's Commiſſion, the *Engliſh* Tradeſman's Profit, the Merchant Exporter's Commiſſion, and Subſidies retained. If the Colonies were not reſtrained from directly importing foreign Commodities, they would, it is preſumed, pay leſs for them, even by 50 per Cent. than they do at preſent.

It hath been already obſerved, that there are ſhipped from *Virginia* and *Maryland*, annually, at an Average, about 90,000 Hogſheads of Tobacco, 60,000 of which, or upwards, are re-exported from *Great-Britain*, to foreign Markets; but they pay to *Great-Britain*, for the Reaſons above explained, 3 *l.* per Hogſhead, *i. e.* the Sum of 3 *l.* upon each Hogſhead might be ſaved if the Tobacco might be *immediately* and *diſtributively* ſent to the reſpective Markets, in Proportion to their Demands; and an equal Sum is paid alſo to *Great-Britain*, upon the ſame Rule of Computation, *i. e.* that theſe Colonies pay what they might ſave, if not reſtrained. For, though the *Engliſh* Manufacturer gets the Tobacco he wants, without the double Freight, *&c.* yet he has the Advantage of the Glut, and an Opportunity of buying it as cheap, as it is ſold in *Great-Britain* for the foreign Markets, before the Charges of double Freights, *&c.* are incurred, and therefore the Planter gets no more for his Tobacco ſold for *Home*, than that which is ſold for *Foreign* Conſumption, and con-

ſequently pays as much for it. For there is great Reaſon to imagine, that if theſe Colonies were at Liberty to ſend their Tebacco *immediately* where they pleaſed, the Market in *England* would be as profitable as thoſe of *France*, *Holland*, &c.—But when the Tobacco, under the preſent Regulation, is purchaſed for Re-Exportation, the Purchaſer undoubtedly conſiders the Expence he is to be at, before he gets to the foreign Market, as Part of the Price of the Commodity, and therefore lowers his Price to the Merchant in Proportion.

The above Sum of 3 *l.* for each Hogſhead, makes	£. 270,000: 00: 0
The Amount of the ſundry Impoſitions and Reſtrictions before mentioned, brought forward, - -	916,666: 13: 4
Total Amount of Taxes to *Great-Britain* - - -	1,186,666: 13: 4
Beſides the above Amount of Taxes paid to the Mother-Country, the Colonies in *North-America* ſupport their own Civil Eſtabliſhments, and pay Quit-Rents to the Crown and Proprietaries, to the Amount (ſuppoſing 600,000 Taxables, at the moderate Rate of 15*s.* each) of -	450,000: 00: 0
Total Amount of Taxes paid to our Mother-Country, and the Support of our Civil Eſtabliſhment, *annually*,	1,636,666: 13: 4

Suppoſing

Suppoſing the clear annual Rents of the Lands in *North-America*, (unreſtrained by Acts of Parliament) wou'd amount to - -	£. 2,500,000

It appears then, that the whole Tax is upwards of 65 per. Cent; and if, therefore, the artificial Value of One Hundred Pounds Worth of *Britiſh* Manufacture, (Cloth for Inſtance) is, according to the above Computation, 33 *l.* 6 *s.* 8 *d.* there was, before the *Stamp-Act*, a Tax paid by the *North-Americans*, near double of that which is paid by the Inhabitants of *England*. If the above Sum of 33 *l.* 6 *s.* 8 *d.* is too low, and ought to be increaſed, then the Tax on *North-America*, on the Article of Manufactures imported from *Britain*, muſt alſo be increaſed.

It ſhould ſeem that the Maxim of every Tax upon Labour falling *ultimately* upon the Conſumer of its Product, cannot be ſtrictly applied to the Product of the *North-American* Colonies. For, as they are obliged to ſend their Commodities to ſome Port in the *Britiſh* Dominions, or (where Indulgence is granted to ſend ſome of them to other Places) deprived in great Meaſure of the Benefit of Returns, they are by this Means ſubjected to dead Freight; and moreover, being confined in their Conſumption to a particular Manufacture, and the Commodities they export, being chiefly raw Materials, they have not the Means generally in the Power of other People, by raiſing the Price of their Labour, to throw their Burthens upon others; but are, for the moſt Part, obliged, both in their Exports and Imports, to ſubmit to an arbitrary

Determination of their Value, though even below firſt Coſt.

The ſanguine Genius of one of the *Anti-American* Writers, brings to my Mind the Fable of the Boy and the Hen that laid *Golden Eggs*. He is not content to wait for the Increaſe of the *Public Revenue*, by that gradual Proceſs and Circulation of Property, which an Attention to the commercial Intereſts of the Nation hath eſtabliſhed, but is at once for tearing away the Embryo, which, in due Time, might be matured into Fullneſs of Size and Vigour; without ever reflecting, that when the Hen is deſtroyed by his Violence, there will be no more GOLDEN EGGS. —— The following Paſſage juſtifies this Obſervation ——

" If we have from the Colonies their ALL al-
" ready, we only have it (ſays he) by Trade, and
" not by Taxes; and ſurely it is not the ſame
" Thing, whether the Wealth be brought into the
" Public Coffers by Taxes, or coming in by Trade,
" flows into the Pockets of Individuals, and, by
" augmenting his Influence with his Wealth, en-
" ables the Merchant to plunge us into new Wars
" and new Debts for his Advantage *."

The Man who thinks the Gains of the Merchant are dangerous, and that the Welfare of the Manufacturers, the Landholders, *&c.* doth not depend upon the Trade and Navigation of *Great-Britain*, is very conſiſtently an Advocate for a Meaſure which hath a direct Tendency to check them; but whether this Opinion, and very conſiſtent Conduct might not be more ſerviceable in ſome

* The Objections to the Taxation, *&c.* conſidered.

other

other Employment, than in that of a L—— of T——, is ſubmitted to their Conſideration, who are the Judges of Merit, and the Diſpenſers of its Rewards.

For a Reaſon, which the above Opinion ſuggeſts, I ſhall ſubjoin an Eſtimate of the Duties upon Tobacco conſumed in *Great-Britain*, and of the Profit to the Planter on that Tobacco.——The intelligent Reader will not apprehend it to be my Meaning, that the Planter pays out of his Pocket all the Duties laid on Tobacco, or be at a Loſs to infer, that the Eſtimate has been made with no other View, than to obviate the Principle others by their Writings ſeem to adopt.

The old Subſidy is One Penny per Pound, 25 per Cent. deducted.

All the other Duties are Seven Pence, and one Third per Pound, 15 per Cent. deducted.

An Hogſhead of Tobacco, at an Average, contains 952 lb.

The whole Duties therefore, - - £. 27 : 14 : 0

The Amount of the whole Duties on 30,000 Hogſheads, is - - - - £. 831,000 : 00 : 0

The full clear Proceeds of an Hogſhead of Tobacco, reckoning 952 lb. in each Hogſhead, has not, on an Average for ſome Years paſt, exceeded 4*l.* † wherefore, on 30,000 Hogſheads, the Planters

† See before, p. 76. The attentive Reader will obſerve, that the neat Proceeds of a Hogſhead of Tobacco, at an Average, are 4*l.* and the Taxes 3*l.*—, together, 7*l.*——Quere, How much per Cent does the Tax amount to, which takes from the two wretched Tobacco Colonies, 3*l.* out of every 7*l.*? And how deplorable muſt their Circumſtances appear, when their vaſt Debt to the Mother-Country, and the annual Burthen of their civil Eſtabliſhments are added to the Eſtimate? In theſe two Colonies there are upwards of 180,000 Taxables.

get

get 120,000 *l.* How much of the above Sum of 831,000 *l.* is nett to the Revenue, I ſhall not undertake to ſay; but I preſume it may be ſafely aſſerted, that no Part of this, or any other Public Money, is touched by any *Americans*, whether *they have great Powers of Speech* or not; though any Gentleman who might be affected by it, is not to be blamed for his Apprehenſion, that *a ſudden Importation* of a certain Commodity, might hurt the *home* Market.

The Sum of the Taxes, paid in *North-America*, will appear enormous to thoſe, who, having been told that theſe Colonies pay only 7 or 800 *l. per Annum*, in Conſequence of Taxes laid *there*, might be led, in their Dependence upon *Miniſterial Candor*, to believe, that they paid no more *elſewhere*;—but to others, who are better acquainted with the Subject, the Computation will appear too low. — From theſe Obſervations it may be inferred what vaſt Wealth in *Taxes only*, the Mother-Country has, in the Courſe of a Hundred Years, drawn from her Colonies; and how *profoundly well-informed* the Writer is, who, with equal Pertinency and Modeſty pronounces, "that it is *now* high Time "for *England* to draw ſome *little* Profit from her "Colonies, after the *vaſt Treaſure ſhe has expended* "*on their Settlement*."

I confeſs that the above Computations are conjectural, but I believe they are probable. I mean that thoſe, who are beſt acquainted with the Subject, will think the Charge upon *North-America* is not exaggerated, and which I think very naturally accounts for the enormous Debt ſhe at preſent labours under to the Mother-Country.

Dr. *Davenant* obſerves, that, "if ever any "Thing great or good be done for the *Engliſh* "Colonies,

" Colonies, Induſtry muſt have its due Recom-
" pence, and that can't be without Encourage-
" ment to it, which, perhaps is only to be brought
" about by *confirming their Liberties*, and eſtabliſhing
" good Diſcipline among them ;—that, as they ſee
" they are a Free People, in Point of Govern-
" ment, ſo they may, by Diſcipline, be kept free
" of the Miſchiefs that follow Vice and Idleneſs.
" And, as great Care ſhould be taken in this Re-
" ſpect, ſo without Doubt, it is adviſeable, that
" no little Emulation of private Intereſts of Neigh-
" bour Governors, nor that the Petitions of *hun-*
" *gry Courtiers* at home, ſhould prevail to diſcou-
" rage thoſe particular Colonies, who, in a few
" Years, have raiſed themſelves by their *own*
" *Charge*, *Prudence and Induſtry*, to the Wealth
" and Greatneſs they are now arrived at, *without*
" *any Expence to the Crown* ; upon which Account,
" any *Innovations*, or *Breach* of their *original Char-*
" *ters*, (beſides that it ſeems a *Breach* of the *Pub-*
" *lic Faith*) may, peradventure, not tend to the
" King's Profit." Excellent Obſervation! but how little it hath been regarded, the preſent deeply afflicting Diſtreſs of the Inhabitants of *North America* demonſtrates ; — a Diſtreſs ſufficient to drive Men into Deſpair, who are not animated by the Hope, that —— DEUS DABIT HIS QUOQUE FINEM.

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